



Appeal Decision

Site visit made on 13 September 2019

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 17TH January 2020

Appeal Ref: APP/M2270/W/19/3231435

Highgate Hall, Rye Road, Hawkhurst, Cranbrook TN18 4EY

- 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 Piers Loxton Edwards of Edwards Dining Rooms Ltd against the decision of Tunbridge Wells Borough Council.
 - The application Ref: 19/00231/FULL, dated 25 January 2019, was refused by notice dated 7 May 2019.
 - The development proposed is described as 'construction of new house within the grounds of Highgate Hall'.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:-
 - i) the integrity and long-term future of trees; and
 - ii) the character and appearance of Highgate Hall, a non-designated heritage asset and the Hawkhurst Conservation Area.

Reasons

Trees

3. The proposal would introduce a footpath and an additional car parking space to the number approved as part of the conversion of Highgate Hall¹ and the recently approved dwelling² to its rear. Whilst a number of trees would be removed and new ones replanted as part of these extant schemes, the proposed parking space would be located in close proximity to a small number of trees identified as tree group G12-B (the tree group).
4. The Council's concern relates to the implication of the proposed footpath and parking space upon this group of trees. There is no dispute that these trees are of significant amenity value and make a positive contribution to the surrounding area. I agree with this assessment.
5. I am mindful that areas for a footpath and parking within the extant schemes would encroach within the root protection area (RPA) of these trees in the region of 11.96 square metres, taking the appellant's measurements, which have not been disputed by the Council. In those schemes, the Council were

¹ Reference: 17/04116/FULL

² Reference: 18/01495/FULL

satisfied to condition the requirement for a tree protection plan and an arboricultural method statement prior to the commencement of works. However, to my mind, the proposal differs from the approved schemes. The proposed car parking space and footpath would increase the totality of hard surface development within the RPA by some 13.88 square metres, again taking the appellant's measurements which have not been disputed. In addition, the proposed footpath and parking space would encroach much closer to the base of the tree group. Accordingly, I find that this part of the proposal is materially different to the extant schemes and a dissimilar approach is justified.

6. Albeit the appellant makes reference to a variety of potential methods being available for the protection of the roots of trees, there is little information before me concerning the appellant's preferred method. Therefore, I am not persuaded that a suitably worded condition(s) could be imposed upon a planning permission as there is no guarantee that any proposed precautionary and mitigation measures would successfully mitigate any adverse impact on the tree group.
7. I have taken into account the potential benefit that may arise from the removal of the existing footpath. However, in my view, this does not negate the potential adverse impact on the health of the tree group that would likely be caused by the proposal.
8. Therefore, on the basis of the evidence before me, I find that the proposed development fails to demonstrate that there would be no adverse impact on a very important part of the root area of the tree group. I note the appellant's view concerning non-compliance with paragraph 38 of the National Planning Policy Framework (the Framework), however, in the absence of any compelling evidence, I am unable to conclude that the proposal would not threaten the integrity and long-term future of this group of trees thereby compromising their significant contribution to the character and appearance of the area. Thus, the proposal would conflict with Core Policy 4 of the Tunbridge Wells Core Strategy (2010)(CS) and Policies EN1 and EN13 of the Tunbridge Wells Borough Local Plan (2006)(LP), insofar as these policies seek to ensure development does not result in the loss of trees which are important to the character of the built up area.
9. The Council's reason for refusal also cites a conflict with the Framework and Planning Policy Guidance, albeit no reference is made to any specific provisions. Notwithstanding this, I find there is a clear conflict with the development plan.

Character and appearance

10. The appeal site consists of garden land to the rear of Highgate House, a substantial detached property set back from the frontage to Rye Road by a brick wall and vegetation. The house is set within a sizeable plot with garden to the rear and each side. To the opposite side of Rye Road is Victoria Hall, a Grade II listed property and to its side lies The Colonnade, a Grade II listed terrace row of two storey properties. Rye Road consists of a variety of dwellings and commercial properties of varying type, style, design and plot size, albeit several are situated within relatively large grounds.
11. Highgate Hall is located within the Highgate and All Saints Church, Hawkhurst Conservation Area (CA). The Hawkhurst Conservation Areas Appraisal (1999)

recognises the CA is generally one of tight knit development interspersed with several important open spaces. However, Highgate Hall sits within the eastern approach of the CA, at the point where the spacious and landscaped character of the CA changes to a tighter knit central commercial area.

12. Highgate Hall is set within a large plot with a wide frontage and mature vegetated grounds. At the time of my site visit, a scheme of refurbishment and conversion¹ to the house was in progress and albeit the gardens were overgrown, overall, I consider Highgate Hall makes a positive contribution to the character and appearance of the CA, particularly the relatively tranquil eastern approach.
13. Whilst there is some dispute between the parties concerning the age of Highgate Hall, it is nonetheless considered by the Council to be a non-designated heritage asset (NDHA). The appellant does not dispute this. Paragraph 197 of the Framework requires the effect of an application on the significance of NDHAs should be taken into account in determining the application. In weighing applications that directly or indirectly affect NDHAs, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
14. The proposal would introduce a detached single storey dwelling of contemporary design together with an area of private terrace. The proposed dwelling would be set within a modest sized plot within the subdivided rear garden to Highgate Hall. Located in a corner position and in an L-shape configuration, the proposal would be of a similar appearance, albeit a mirror layout to the recently approved dwelling², in the opposite corner of the garden. Access to the appeal site would be gained from a newly formed pathway connecting to the parking area to the front of Highgate Hall. The proposal would utilise the existing vehicular access point to Rye Road.
15. The proposal would reduce the size of the rear garden to Highgate Hall. This would encroach and erode the rear garden. However, given that the proposal would be single storey in height, positioned within a walled garden and set back from Rye Road, the proposal would be largely imperceptible from public view, particularly given the likelihood of parked cars and intervening vegetation obscuring views towards the appeal site from highway at the point of the driveway opening. As such, the size and nature of the space is not readily visible from the public domain.
16. The impact of the proposal would be limited to views from within the retained communal garden area, windows of the upper floors of Highgate Hall and the approved dwelling. However, the extensive grounds that historically accompanied the house have been vastly reduced over time and it will be further eroded by the additional built form of the approved dwelling, which appeared to be under construction at the time of my site visit. Given the built up nature of the immediate area and the limited scale of the proposal, it would appear as an ancillary outbuilding to Highgate Hall and it would not appear visually intrusive from the limited viewpoints identified above.
17. Overall, there would be an encroachment and erosion of the rear garden as a consequence of the proposal. However, whilst there would be some limited change to the rear garden, taking everything into consideration, the striking and high status appearance of Highgate Hall would be retained together with its special character and appearance of being positioned within a relatively

large and secluded plot. Accordingly, the proposal would cause no harm to the appreciation of Highgate Hall and the CA. Thus, the proposal would accord with LP Policy EN5 insofar as this policy requires development within a CA to preserve or enhance the character and appearance of the area. Additionally, there would be no conflict with the provisions of paragraph 196 of the Framework as I have found no harm to the significance of heritage assets.

Other Matters

18. I have had regard to the proposal being located within the High Weald Area of Outstanding Natural Beauty (AONB). Given the location of the appeal site within the built up environment of Hawkhurst, it is the Council's case that there would be no adverse impact upon the AONB. I see no reason to disagree with this assessment.
19. Furthermore, as the appeal site is located within the setting of a number of listed buildings, I must have regard to the statutory duty under s.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Given the scale of the proposal and its relatively secluded position I find it would cause no adverse harm to these heritage assets. In relation to listed buildings, the Council's Heritage Officer has raised no objection to the proposal and, based on the evidence before me, I see no reason to take a different view.

Planning Balance and Conclusion

20. It is common ground that the Council are presently unable to demonstrate a five year supply of land for housing. Thus, the weight to be attached to the proposal's benefits in respect of the provision of a new dwelling would increase. However, the provision of an additional dwelling is a modest benefit that is insufficient to overcome the significant and demonstrable harm that has been identified above in respect of the conflict with the Core Strategy and Local Plan's provisions for the protection of trees.
21. I have found no harm with regards to the character and appearance of the NDHA and the CA. However, for the reasons given above, there would be conflict with CS Core Policy 4 and LP Policies EN1 and EN13. Taking all relevant matters into account, I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when considered against the Framework as a whole.
22. For the reasons given above, the appeal is dismissed.

E Brownless

INSPECTOR