
Appeal Decision

Site visit made on 18 February 2020

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2020

Appeal Ref: APP/K0425/W/19/3241116

Land Rear of 38 to 48 Rectory Avenue, High Wycombe HP13 6HW

- 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 M Kleiner on behalf of Omnicrest Construction Ltd against the decision of Wycombe District Council.
 - The application Ref 18/07057/FUL, dated 2 July 2018, was refused by notice dated 28 May 2019.
 - The development proposed is erection of a 4 bed detached single dwelling with associated parking, access, amenity space and landscaping.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Omnicrest Construction Ltd against Wycombe District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The planning application that is now the subject of this appeal was originally refused for 2 separate reasons. However, the Council has confirmed in writing that it no longer wishes to defend its second reason for refusal which related to surface water drainage measures. I shall determine the appeal on this basis.
4. Since the determination of the planning application that is now the subject of this appeal, the Wycombe District Local Plan (August 2019) (the Local Plan) has been adopted by the Council and can now be afforded full weight in decision making. Both main parties to this appeal have had the opportunity to make comments upon the implications of this and I shall consider the appeal accordingly.
5. A revision (Revision A, February 2020) to Appendix A of the submitted Townscape and Visual Impact Appraisal (the TVIA) (October 2019) has been submitted as late evidence by the appellant. On the basis that the submission is merely intended to correct a previous typographical error, I am content to accept the revised document and am satisfied that no party with an interest in this appeal is prejudiced by me doing so.

Main Issue

6. The main issue is whether or not the proposal would preserve or enhance the character or appearance of the Amersham Hill Conservation Area (the Conservation Area), having particular regard to its effect upon protected trees on the site.

Reasons

7. The significance of the Conservation Area as a designated heritage asset is drawn, to a large extent, from its spacious and heavily landscaped sylvan character that is further defined by the regular presence of linear rows of typically large residential dwellings set within often generously sized plots. Indeed, these features are relevant to the historic development and evolution of the area.
8. The appeal site is comprised of an area of land that is setback from Rectory Avenue and that forms part of a wider development site (the wider site) where planning permission¹ for the construction of 4 dwellings was first granted in 2016. The proposal would essentially add an additional fifth dwelling. For this to be constructed, the scheme necessitates the removal of several existing trees that are the subject of a Tree Preservation Order² that covers all trees across the wider site (the TPO). I note that it is not for me to assess the suitability of the process followed by the Council in issuing the TPO, rather it is my duty to assess the planning merits of the proposal that is before me.
9. The specific trees earmarked for removal consist of a linear group of sycamore, lime and ash trees (G76) that stand alongside a single specimen lime tree (T77). Through the appellant's supporting arboricultural assessments³, these are categorised as Category C trees which, in accordance with the relevant British Standard, signifies unremarkable trees of very limited merit or impaired condition with no material conservation value. Nevertheless, the Council has suggested that a higher categorisation may be more appropriate.
10. It is not my role to formally categorise the trees under consideration here. I shall instead focus upon the merits of the proposal, taking full account of the evidence that is before me whilst factoring in my own on-site observations. It was evident from inspection that the trees comprising G76 and T77 (the tree line) is tightly spaced and is typically made up of tall specimens with relatively narrow crowns and slender trunks/stems. The specimens contained within the tree line appeared to typically be in reasonable health and not in a state of decline. I observed, in general terms and notwithstanding ivy growth that was in existence, the trees to be established, structurally sound and not of poor-quality
11. Due to the tight spacing, not every single specimen contained within the tree line would realistically be expected to flourish in the long term. Nevertheless, the tree line is not comprised of a minor or inconsequential assemblage of trees. Even should the smallest and/or weakest specimens ultimately fail, the tree line would be much more likely than not to provide a valuable long-term contribution to the local landscape. Indeed, even based on the assumption

¹ 14/07005/FUL, later varied through permission 17/06657/VCDN

² 55/2019, made 16 September 2019

³ Revised Arboricultural Implications Assessment for proposed fifth residential, dated 13 March 2019 & Arboricultural Appeal Statement, dated 27 September 2019

that the tree line was self-set, given its now established form, any potential vulnerability to damage from pests and diseases in the future does not raise undue concerns.

12. The TVIA sets out to determine the extent to which the trees proposed to be removed contribute to the visual amenity of the area, the character of the Conservation Area and the integrity of the skyline. Its methodology is based on the latest guidelines for Landscape and Visual Impact Assessment and the document includes analysis from various viewpoints and is supported by visual texture analysis, which is a tool used to calculate the percentage change to any given view that would be caused by a proposal.
13. I have noted the TVIA's ultimate finding that the intended tree removals would not have a significant effect upon the character of the Conservation Area. Whilst I have given due consideration to the analysis contained within the TVIA, I am not in full agreement with its findings and consider that the townscape and visual effects of the proposal have been somewhat underplayed. Indeed, a general prevalence of trees and shrubs in the Conservation Area does not necessarily mean that the area could sustain the loss of a proportion of trees, even if relatively limited in extent, without significant adverse effects. As stated above, much of the Conservation Area's significance is drawn from its heavily landscaped sylvan character. The area is thus highly sensitive to potential tree losses.
14. The tree line exists in proximity to various trees positioned along the eastern boundary of the appeal site. There are also existing trees in place to the site's (and wider site's) southern boundary. The trees situated to these boundaries temper and restrict the visual prominence of the tree line. However, the tree line provides important depth and reinforcement to the boundary planting that is in place. Indeed, its removal would lead to a somewhat insubstantial single row of somewhat irregularly spaced trees being left to the site's eastern boundary and a similar situation to the site's southern boundary, where only a limited number of trees are in place.
15. Other than the existence of trees to the site's boundaries, I acknowledge that there are other factors that restrict visibility of the tree line and that this is reflected in various viewpoints used in the TVIA. The site occupies a setback location relative to the nearest roads such that there are intervening buildings in place from various potential vantage points. There are also differences in levels that have the effect of impeding views from some close-range locations. Nevertheless, I observed the tree line to be visible, at least in-part, from a range of accessible eye level viewpoints including locations along Rectory Avenue.
16. In terms of long-range views, I observed the tree line's visibility to be very limited from Marlow Hill. However, this is not the case when experienced from The Rye. This is a large open area of green space used for recreational purposes that is situated to the south of, and at a lower land level relative to, the site. From inspection at multiple locations on The Rye I was able to make out existing development upon the wider site as well as on-site planting. Notwithstanding the presence of intervening planting to the site's southern boundary, a substantial portion of the inner tree line was depictable above the intervening townscape.

17. I note that Viewpoint 15 contained within the TVIA is from The Rye, and that this illustrates a limited effect due to only a small part of the uppermost portion of the tree line being visible. This is at odds with my own observations. The reason for this discrepancy is due, at least in-part, to changing seasons and associated differences in leaf cover. Importantly, this serves to highlight the fragility of the landscaped screen that, in this scenario, is situated to the southern boundary of the site and wider site. It does not provide a robust and thick landscaped edge. Indeed, I have factored in the makeup of the site's perimeter planting when interpreting the findings of the visual texture analysis that has been undertaken in support of the proposal.
18. In line with the above reasoning, and notwithstanding its largely dormant current state given the time of year of my inspection, the tree line constitutes a significant and noticeable component of the local landscape and provides an important contribution to the character and appearance of the Conservation Area. This is particularly when considered in the context of the large number of trees that have already been removed from the wider site in recent years. The tree line's intended loss would have a negative influence upon how the area would be read and experienced, most particularly by local residents.
19. I do not consider that the tree line's intended loss could be fully mitigated for by replacement planting. This is not least due to the length of time it would take for planting to establish itself and to grow to a comparable height and extent. Furthermore, it is my understanding that additional landscaping is set to be implemented across the wider site under the terms of the planning permission for 4 dwellings that has recently been implemented. In this context, any opportunities for further mitigative replacement planting would appear to be relatively limited and it has not been clearly demonstrated otherwise.
20. The proposed dwelling would be situated relatively close to the eastern boundary of the site, such that the construction works (including excavation works) would take place only a relatively short distance from the various tree specimens that line this boundary. Having inspected this relationship and the particular tree specimens in question (including the extent and makeup of their canopies), I am satisfied that, subject to robust tree protection measures being put in place for the duration of construction works, limited risk to the continued health and vitality of this outer tree line would be caused.
21. I have noted concerns raised by the Council with respect to potential future pressures being placed upon the eastern boundary trees by virtue of the proximity of the newly proposed accommodation. For example, through pruning or potential removal to allay fears associated to property damage or overshadowing. However, I am sufficiently satisfied that the dwelling would be situated far enough away from the boundary trees to allow potential future conflicts to be managed appropriately and effectively. Furthermore, it is not the case that the proposed property and its intended garden area would be shaded from sunlight by the boundary trees during all periods of any given day. I also note that they are protected by virtue of both the TPO and their Conservation Area location, which offers further assurances as regards their long-term future.
22. Nevertheless, by virtue of the tree removals that are intended, the proposal would lead to less than substantial harm being caused to the significance of the

Conservation Area. As set out in the National Planning Policy Framework (February 2019) (the Framework), any less than substantial harm should be weighed against the public benefits of the proposal.

23. The scheme would deliver an additional housing unit and the Framework reaffirms the Government's objectives of significantly boosting the supply of homes and promoting the effective use of land. Whilst the appellant has referenced housing need being exported to a neighbouring authority due to constraints in the District such as the Green Belt, the contribution of one dwelling suitable for family occupation would make a small difference to the District's housing supply such that I apportion this benefit of the scheme only limited weight.
24. The proposal would also generate jobs and investment during the construction phase and expenditure in the local economy and support for local community facilities in the area once occupied. These are benefits that attract limited weight given the modest scale of development under consideration. Any potential biodiversity improvements encouraged by new landscaping and the active maintenance of existing trees would be minimal, particularly given that existing trees would be removed in order to facilitate the scheme.
25. As indicated in the Framework, when considering the impact of a proposal upon the significance of designated heritage assets, great weight should be given to the asset's conservation. The above contributions would, in combination, be relatively modest and would not outweigh the considerable level of less than substantial harm that would be caused to the significance of the Conservation Area.
26. For the reasons set out above, the proposal would fail to preserve or enhance the character or appearance of the Conservation Area, having particular regard to its effect upon protected trees on the site, and would thus cause harm to the significance of this heritage asset. The proposal conflicts with Policies CP9, CP10, CP11, DM31, DM32, DM34 and DM35 of the Local Plan in so far as these policies require that the conservation and enhancement of the historic environment shall be promoted and that development is required to improve the character of the area and the way it functions and to protect and reinforce the positive key characteristics of the receiving landscape.
27. The proposal also conflicts with Objective GI4 of the Wycombe District Council Residential Design Guidance (June 2017) (the RDG) in so far as this guidance requires that significant existing trees or tree groups and other vegetation that make a valuable contribution to the public realm are retained. The proposal does not conflict with Objective GI5 of the RDG, in the sense that it relates to designing new trees into development rather than to the protection of existing specimens.

Other Matters

28. I have noted objections/concerns raised by interested parties with respect to matters including highway safety, drainage, the effect upon neighbouring living conditions and the impacts upon wildlife and air quality. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to explore these matters further here.

Conclusion

29. The proposal conflicts with the development plan when read as a whole and material considerations, including the identified public benefits of the scheme, do not lead me to a decision otherwise. Thus, for the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR