



Appeal Decision

Site visit made on 4 August 2020

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 August 2020

Appeal Ref: APP/X1355/W/20/3253487

**Land to the North of 14, Road Through Tudhoe Village, Tudhoe Village
DL16 6LJ**

- 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 Peter Stott Properties Ltd against the decision of Durham County Council.
 - The application Ref DM/20/00361/FPA, dated 7 February 2020, was refused by notice dated 6 April 2020.
 - The development proposed is the "construction of 1no. two storey detached dwelling".
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Decision

1. The appeal is allowed and planning permission is granted for construction of 1no. two storey detached dwelling at Land to the North of 14, Road Through Tudhoe Village, Tudhoe Village DL16 6LJ in accordance with the terms of the application, Ref DM/20/00361/FPA, dated 7 February 2020, subject to the conditions set out in the schedule attached to this decision.

Main Issues

2. The main issues are the effects of the proposal on the character and appearance of the area, and the natural environment.

Reasons

Character and appearance

3. The appeal site is a broadly triangular area of land, set within a wider site, bounded by and containing trees and vegetation of varying sizes and types. To one side, the site adjoins a number of relatively modern single-storey dwellings, and fronts onto the village green, which itself contains a number of large, mature trees. To the other, the site adjoins older, more traditional buildings.
4. Within the village, and around the large village green in particular, there is a great variety of built form, as well as a wide range of materials and finishes. No single character or appearance of building type or materials dominates, nor is there a particular coherence to the rhythm and form of the buildings, along and around the green.
5. Planning permission has previously been granted for the development of the wider site, which amongst other elements, includes a single detached dwelling adjacent to the appeal site. From my site visit and the submissions of the appellant it appears that there is a real prospect of that development taking

place and as a result, I consider that permission to be a material consideration of some weight in this appeal.

6. That extant planning permission granted permission for the removal and reinstatement of various trees within and around the site. The appeal proposal relies on that same previously approved landscaping proposal. Indeed, on my site visit, there appeared to be a number of relatively recently planted and protected trees on the site.
7. The site is within the Tudhoe Village Conservation Area (the CA), and the Sedgefield Borough Local Plan Supplementary Planning Guidance Note 1 – Conservation Areas (the SPG) explains its significance. It highlights the development of the village around the green at its centre, as well as the distinct relationships between that open green and the built development that surrounds it, which change throughout the village. In particular, it notes that close by the appeal site, the green is narrower than elsewhere and views focus on the stone-built public-house and a stand of mature trees in the grounds of “16 South Side”, which appears to be the appeal site. The trees and vegetation which characterise the boundary of the site and provide a backdrop to longer views along the green do therefore make a positive contribution to the character and appearance of the CA.
8. In considering the effect of the proposal on the character and appearance of the CA, it is important to note that the appeal proposal does not seek to remove any more trees or vegetation than already allowed for under the extant consent for the development of the wider site. As a result, the appeal proposal would not affect the contribution which the trees themselves make to the character and appearance of the CA.
9. Turning to the amount of built development on the site, it is true that an additional building would reduce any open character and appearance within the site. However, from the public domain, the character and appearance of the site is dominated by the trees and vegetation on the boundary and in my opinion, would remain so following construction of the appeal proposal. I do not therefore consider that the site has such an open character and appearance that it would be unacceptably harmed by the addition of a dwelling within trees which are to be retained and strengthened with additional planting. In addition, the appearance of a dwelling behind and within trees would not be inconsistent with existing elements of the village.
10. In considering the effect of the development on the character and appearance of the area, the Council has taken into account the cumulative effect of the development on the wider site (as shown in the blue-line area on the plans for this appeal). In light of the existing character and appearance of the area, I do not consider that the appeal proposal, either in isolation or in combination with the wider development, would appear so excessive as to cause the harm to the character and appearance of the area alleged by the Council. In particular, the density of the site, and the relationship of the appeal proposal to the buildings in the extant consent would not, in my opinion, appear materially different from that of other properties in the village, and in particular, the dwellings immediately adjacent to the site.
11. In my opinion, the effect of the proposal on the wider CA, particularly in long views along and across the village green, would be relatively minor. Whilst the proposal would be visible, it would be behind both the retained and newly

planted trees. In addition, the appeal proposal would have no effect on the other large trees both on the green and around it, which make, in my view, as much of a contribution to the character and appearance of the CA and the village green as those on the appeal site.

12. Whilst I note the concern of the Council over the potential for future pressure to manage trees or vegetation, these are matters over which they would have control in the future, owing to the CA status of the site.
13. For the above reasons, having regard to the great weight to be given to the conservation of heritage assets, I consider that the proposal would have a neutral effect on the significance of the CA, and would therefore preserve the character of it.
14. The proposal would not therefore be harmful to the character and appearance of the area and would therefore comply with Saved Policies H17, E15, E18, D1 and D5 of the Sedgefield Borough Local Plan 1996. These policies seek, amongst other things, to ensure that development is in keeping with the scale, form and setting of its surroundings, ensures the safeguarding of trees, preserves or enhances the character or appearance of CAs, is contextually appropriate, with appropriate landscaping and is appropriately laid out. The proposal would also comply with guidance in the National Planning Policy Framework (the Framework) which seeks to achieve well-designed places, as well as the conservation and enhancement of the historic environment.

Natural environment

15. Taken together with my conclusions on the effect of the proposal on the loss, retention and replacement of trees on the site set out above, I do not consider that the potential for significant harm alleged in the context of paragraph 175 of the Framework has been demonstrated. The works required to the trees on the site to enable the appeal proposal have already been approved, and as I have concluded, there appears to be a very real prospect of those works taking place in connection with the extant planning permission. No further tree works are proposed. The Council suggests that there could be a "perceived impact" on bats but has provided no further justification. Nor has it suggested how the appeal proposal, either alone or in combination with the wider development of the site would give rise to such harm, particularly given that the landscaping scheme is the same as that already approved, and which could therefore be carried out regardless of the outcome of this appeal.
16. I note that the authority is concerned over whether or not bat boxes either have been or will be installed at the site. However, details of these are shown on the proposed landscaping drawing, which is the same as that previously approved, and can be controlled further through the proposed landscaping condition.
17. Future pressure to fell, or otherwise manage the trees on the site would, by virtue of the CA location, be subject to the control of the Council. Given the nature and context of the site would be abundantly clear to any future occupiers, I do not consider that the Council would necessarily find it difficult to equitably and appropriately exercise that control in future.

18. As a result, I conclude that the proposal is consistent with the aims of the Framework to conserve and enhance the natural environment, and that the proposal would not cause the alleged harm to the natural environment.

Other Matters

19. I note the comments of both third parties and the Council on alleged historic, unauthorised removal of trees on this site. However, I do not consider those allegations necessarily material to the determination of this appeal, particularly in light of the fallback position regarding the removal and replacement of trees on the site set out above. In any event, the appeal proposal and consideration of its effects addresses the trees currently on site, further details of which are required by condition, and subsequent works to which are subject to control by the Council.

Conditions

20. The Council has suggested a number of conditions to be attached, should planning permission be granted. I am satisfied that they are necessary in order to ensure the satisfactory appearance of the completed development, to preserve the character and appearance of the CA, to ensure that any ground contamination is properly identified and remediated, to ensure the appropriate protection of trees on the site and any archaeological remains which may be found and to ensure that neighbouring residential amenity is protected during the construction phase. The conditions meet the tests in, and requirements of both the Framework and the Planning Practice Guidance.
21. The details required in connection with conditions 8, 9 and 11 are required prior to the commencement of the development as these are matters which could not properly be addressed at any later stage, should planning permission be granted and the development commence. The appellant has given their written agreement to the terms of these conditions.
22. The Council requested a condition be imposed to restrict permitted development rights for the new dwelling, ostensibly to protect visual and neighbouring amenity as well as to ensure the protection of trees. Given the conditions which already apply to those rights, and the protection already afforded to trees in the CA, I do not consider that such a condition would be reasonable or necessary and have not imposed it.

Conclusion

23. For the reasons given above I conclude that the appeal should be allowed, and planning permission granted.

S Dean

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. That the development hereby permitted shall be carried out in accordance with the following approved plans: AG(03)65, AG(03)45C House B Proposed Plans, AG(03)46C House B Proposed Elevations, AG(03)63 Proposed Site Plan – Phase 2, AES-6 Landscape Proposals-2019 and the Woodlands Tudhoe Village Landscape Report Revision 5.
3. Notwithstanding any details of materials submitted with the application no development shall take place above floor-slab level until details of the make, colour and texture of all walling and roofing materials have been submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details.
4. Notwithstanding the information shown on the submitted plans full joinery details, drawn to a scale of 1:20 shall be submitted to and approved in writing by the local planning authority prior to the commencement of development above floor-slab level. The scheme shall be implemented in accordance with the approved details.
5. Details of means of enclosure including proposed bin store details shall be submitted to and approved in writing by the local planning authority prior to the commencement of development above floor-slab level. All enclosures shall be constructed in accordance with the approved details prior to the occupation of the dwelling to which they relate.
6. Prior to the first occupation of the dwelling hereby approved, a detailed landscaping scheme, consistent with the report listed in condition 2 shall be submitted to and approved in writing by the local planning authority. The scheme of landscaping shall include details of all hard and soft landscaping areas including details of planting species, sizes, layout, densities, numbers, method of planting and maintenance regime, as well as indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.
7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first available planting season following the practical completion of the development, and any trees or plants which within a period of 5 years from the substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
8. No development shall commence, nor shall any materials or machinery be brought on the site until details showing the exact position of protective fencing around trees and hedges, within and adjacent to the site to be retained have been submitted to and approved in writing by the local planning authority. Approved details shall be implemented onto site prior to commencement of development and retained thereafter for the period of development. No operations whatsoever, no alterations of ground levels, and no storage of any materials are to take place within the protective fenced areas, and no work is to be done as to adversely affect any tree.

9. No development shall commence until a land contamination scheme has been submitted to and approved in writing by the local planning authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Phase 2 site investigation, which shall include a sampling and analysis plan. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.
10. Remediation works shall be carried out in accordance with the approved remediation strategy. The development shall not be brought into use until such time a Phase 4 verification report related to that part of the development has been submitted to and approved in writing by the local planning authority.
11. No development shall commence until a written scheme of investigation setting out a programme of archaeological work in accordance with 'Standards for All Archaeological Work in County Durham and Darlington' has been submitted to and approved in writing by the local planning authority. The programme of archaeological work will then be carried out in accordance with the approved scheme of works.
12. The development shall not be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, should be confirmed in writing to, and approved by, the local planning authority.
13. External construction work, work of demolition, deliveries, external running of plant and equipment shall only take place between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1400 on Saturday. Internal works audible outside the site boundary shall only take place on the site between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday. No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays. For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

End of schedule of conditions