



Appeal Decision

Site visit made on 13 October 2020

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th November 2020

Appeal Ref: APP/M1710/W/20/3251786

Mansfield Business Park, Station Approach, Medstead, Alton GU34 5PZ

- 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 Country Estates Hampshire Limited against the decision of East Hampshire District Council.
 - The application Ref 20253/022, dated 10 July 2019, was refused by notice dated 24 January 2020.
 - The development proposed is full planning application for 4 no 2 bed flats and 2 no 1 bed flats in a singular building with associated parking and landscape works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the character and appearance of the area;
 - the living conditions of future occupiers, with particular regard to whether or not suitable outdoor amenity space would be provided; and
 - a protected tree.

Reasons

Character and appearance

3. The appeal site is an irregular plot of land within an existing small business park comprising detached two-storey buildings and an area of surface car parking. Directly adjacent to the site, there is a recent development of a two-storey block of flats set within an area of landscaping and car parking on Watercress Mews. The layout of the surrounding development, with buildings separated by areas of surface parking and landscaping, gives the area a spacious character.
4. The northern boundary of the appeal site slopes upwards to form a raised bank which is vegetated and includes a number of trees, including a mature sycamore tree which is subject to a Tree Preservation Order¹ (TPO). The tree lined bank extends along the rear boundary of the business park and the

¹ Tree Preservation Order (E.H. 476) (2002)

adjacent development at Watercress Mews, providing a verdant backdrop visible between buildings from Station Approach.

5. The proposed development would be a detached two-storey building with additional accommodation in the roof. The site would be laid out with the proposed building located within the widest part of the site and an area of car parking, cycle storage, landscaping and amenity space to the west within the narrower part of the site. The proposed building would be adjacent to the block of flats on Watercress Mews where it would be positioned between the northern treed boundary and the new access road which would link to Watercress Mews.
6. Due to the angle of the rear site boundary line, the north-west corner of the proposed building would be very close to this rear boundary. Furthermore, the trees along this boundary, due to their size and position, would also be very close, with the submitted drawings indicating that the tree canopy of the protected sycamore would be touching the building. I return to this in my third main issue below. The proximity of the building to these trees in combination with the restricted space between the rear boundary and the proposed building's rear elevation, would make the building appear overly large and cramped in this position within the plot.
7. The proposed development would be laid out with modestly sized areas of grass amenity space either side of the building, a small area of amenity space to the rear and a strip of landscaping between the new building and the new road. The submitted drawings indicate that this would narrow as it passes in front of the proposed building and widen again in the car parking area. The narrowness of this space to the front of the building would also contribute to the cramped appearance of the proposed development.
8. The proposed building would be a similar size to the adjacent block of flats and would occupy a similar sized but different shaped site. However, due to the shape and constrained width of the appeal site, the proposed building would be both set forward of this adjacent block but also positioned much closer to the rear site boundary. This neighbouring building has a much wider separation distance from its rear boundary and provides a more spacious layout and larger areas of undeveloped and open space within the site. The appeal scheme does not achieve this same degree of spaciousness. It therefore does not reflect the character of surrounding development.
9. The opening up of the boundary between the existing and proposed developments on Watercress Mews would enhance and soften the space around the development through the formation of an area of grass and reconnecting the vegetated and tree lined bank at the rear. However, this would not overcome the harm arising from the position and size of the proposed building within the site.
10. Whilst the proposed development would not be widely visible due to its position towards the rear of the business park, it would nonetheless be visible from surrounding development and from public views into the site from Station Approach. There is an extant planning permission for a larger two-storey office building which would occupy a similar footprint to the appeal proposal. However, as an office building this would form part of the existing business park, set within the area of surface car parking. It would therefore be different to the appeal proposal which would be enclosed from the business park and

consequently contained within a smaller site in which it would appear cramped as I have found.

11. I conclude that the proposed development would harm the character and appearance of the area. It would therefore conflict with Policy CP29 of the East Hampshire District Local Plan: Joint Core Strategy 2014 (JCS) which requires new development to respect character and that its layout and design contributes to local distinctiveness and is appropriate in terms of its space around buildings and landscape features. It would also not comply with Objective 5 of the Medstead and Four Marks Neighbourhood Plan 2016 which requires new homes to be of an appropriate design and scale. It would also not accord with the Medstead Village Design Statement insofar as it seeks a layout that respects the characteristics of the village, particularly with regard to the sense of space. It would also conflict with the design objectives of the National Planning Policy Framework (the Framework) which amongst other things sets out that developments should be visually attractive as a result of good layout and should add to the overall quality of the area.

Living conditions

12. The scheme proposes various areas of outdoor amenity space both adjacent to the proposed building as well as an area of amenity space beyond the car park. These are variously described as formal and informal amenity space and communal open spaces which would be shared with the existing development on Watercress Mews. The Council has no adopted size standards for outdoor amenity space.
13. The proposed areas of outdoor space would be located at the rear of the site under the retained trees as well as adjacent to the road, turning head and car parking area. The area at the rear of the site would be small in size, sloping, heavily shaded and largely enclosed between the rear of the proposed building and the trees. The remaining areas, due to their close proximity to both parked and manoeuvring vehicles, would neither be very private nor attractive environments for relaxing or sitting out in. In this regard, none of the proposed outdoor spaces would function well as outdoor amenity space nor would they provide a high standard of amenity for future users.
14. The overall amount of amenity space provided within the site is indicated to be around 166 square metres. It would be smaller in size but nevertheless comparable to that serving the existing development on Watercress Mews which is limited due to the extent of tree coverage and shading. The Council raised no concerns about the provision of amenity space in this scheme. However, the main area of amenity space serving this development is set away from the road and car parking area and therefore provides a more private and attractive area for occupants to enjoy. The appellant has suggested that this space could also be used by occupants of the proposed development. However, this is a small area of amenity space that would be unlikely to be able to satisfactorily accommodate the external space needs of occupants of two blocks of flats.
15. The appellant has indicated that the proposed areas of communal open space would be available for use by occupants of the existing block of flats, thereby increasing the amount of amenity space available to them. However, as I have found that this space is unsatisfactory as amenity space this carries very limited weight.

16. The appellant has highlighted a number of appeals where insufficient amenity space has been provided and Inspectors have upheld those reasons for refusal because the Council had policy and guidance requiring a minimum provision. However, I have limited details of the circumstances of these cases. In any event, it is the quality of the space provided rather than the quantum of space that I have found harmful in this case.
17. I have been referred to an appeal decision² where the Inspector concluded that in the absence of prescribed garden sizes, prospective occupiers would have a clear choice as to whether they wanted their own private outdoor amenity space or not and that, ultimately, this was a matter for the market.
18. I accept that some people would not be interested in private outdoor space and would be happy with low maintenance shared spaces. Moreover, the provision of new housing without private outdoor space can make it more affordable for new households. However, this does not justify a poorly designed development that makes inadequate provision for quality shared outdoor amenity space. It could be inferred from the market interest in the Watercress Mews development with its limited amenity space, that this indicates a lack of demand for such space. However, I have no substantive evidence that this is the case.
19. I conclude that the proposed development would harm the living conditions of future occupiers as it would not provide suitable outdoor amenity space. It would therefore conflict with the Framework which seeks well-designed places that function well and provide a high standard of amenity for future users.

Effect on tree

20. The protected sycamore is an established tree, indicated to be early mature with a height of 17 metres and a large canopy. It is located along the northern boundary of the appeal site where it makes a positive contribution to the visual amenity of the area, as recognised by its inclusion in the TPO. It is visible as part of the line of trees along the rear boundary of the business park from public viewpoints into the business park along Station Approach as well as from the recently completed development at Medstead Grange to the rear of the site. These trees together also provide screening between the business park, appeal site and houses in Medstead Grange.
21. The protected tree is indicated to be around 5 metres from the proposed block of flats. Its crown spread is shown to have a 5 metre radius which means that it would extend to touch the rear elevation of the building. The close proximity of the tree to the building and rear facing bedroom windows would reduce, and potentially block, light to and outlook from these rooms. Furthermore, during windy weather it would be likely to knock against these windows causing inconvenience and potential concern to occupiers. As such, the proposed building would have an unsatisfactory relationship with the protected tree.
22. The Council has indicated that a condition could be imposed to prevent removal or pruning of trees in the context of protecting the privacy of neighbours to the rear in Medstead Grange. However, it seems to me that if the tree were to cause unacceptable harm to the living conditions of future occupants it would be difficult for a request to lop, top or fell the tree to be resisted in these

² APP/D0121/A/10/2121345

circumstances. In support of the appeal, the appellant has submitted analysis³ demonstrating that proposals for inappropriate pruning or removal of trees can be resisted by Councils and upheld at subsequent appeals. Whilst this analysis is not disputed, it does not mean that in the circumstances of the appeal scheme before me that the Council would be able to resist a request for the pruning or removal of this tree.

23. The recent development to the north of the appeal site at Medstead Grange was subject to a requirement for the protection of trees on this site covered by the same TPO as that of the appeal before me. However, subsequently works to those trees were requested and granted permission⁴ by the Council to allow for greater clearance of the gardens and to let more light into the gardens of the newly built homes. This adds weight to my concern that the protected tree in this appeal would come under similar pressure.
24. The appellant's Tree Survey and Impact Assessment dated October 2019 categorised the sycamore based on guidance in British Standards⁵ as a Category C grade and of low quality. The Council disputes this categorisation, the severity of issues associated with the formation of the tree and the need to crown reduce the tree to address safety concerns arising from its formation. I have no conclusive evidence before me that the tree poses safety concerns to the extent that it would require the crown reduction works proposed by the appellant.
25. The proposed crown reduction works would provide separation between the tree and the proposed building. However, the need for these works have not been justified. As an alternative, the appellant has proposed directional pruning of the tree's south elevation to provide a separation of 3 metres from the rear elevation of the building. Whilst some pruning of the canopy may be appropriate, the proposed pruning would amount to more than half the crown of the tree being removed on one side of the tree. Although this may not harm the wellbeing of the tree, it would significantly diminish the tree's canopy and consequently its contribution to the verdant character, visual amenity and screening along this rear boundary.
26. The extent of the root protection area is a matter of dispute between the parties. The evidence indicates that at some point the ground levels have been regraded and that this would have affected the extent of the tree's roots. However, the evidence is inconclusive as to when the regrading works took place and therefore whether or not the building would fall within the root protection area. However, even if the building were to be entirely located outside the root protection area, this would not overcome my concerns about the proximity of the tree canopy to the rear elevation of the building.
27. The extant permission for a two-storey office building on the site would occupy a similar position but larger footprint than that of the appeal building. However, it would be set further away from the protected tree than the appeal proposal. The tree's canopy would not be as close to the rear elevation of the office as in the appeal scheme nor would it touch the building. Furthermore, as a commercial rather than domestic premises, the nature of any inconvenience

³ An analysis of Tree Preservation Orders, applications, decisions and appeals within Rushmoor Borough Council 2007-2012 (July 2013)

⁴ Council Ref: 21696/014

⁵ BS 5837:2012 Trees in relation to design, demolition and construction - Recommendations

arising from the proximity of the tree is likely to be less for occupants of this type of use.

28. The appellant considers that the requirement for an Arboricultural Method Statement could have been secured by condition as it was in the neighbouring Watercress Mews development. This scheme was allowed on appeal⁶. However, the proximity to trees including TPO trees along the northern boundary was not a matter of dispute in this case. In any event, the trees along the northern boundary and the space between these and the permitted block of flats is greater than in the appeal before me. As such, the Watercress Mews case is not comparable to the scheme before me.
29. I acknowledge that in the Medstead Grange scheme the Council took a different approach to arboricultural matters seeking to secure compliance with submitted arboricultural information. I do not have the full details of the arboricultural information submitted with the scheme. However, in the scheme before me, the Council was concerned that the proximity of the protected tree to the proposed development could make the scheme unacceptable. In these circumstances, it was not unreasonable for full information about this to be required prior to any planning application being decided.
30. I conclude that the proposed development would adversely affect a protected tree. It would therefore conflict with Policy C6 of the East Hampshire District Local Plan: Second Review 2006 which does not permit development that would damage or destroy trees protected by a TPO.

Conclusion

31. For the reasons set out above, I conclude the appeal should be dismissed.

Rachael Pipkin

INSPECTOR

⁶ APP/M1710/W/16/3154233