
Appeal Decision

Site Visit made on 27 September 2021

by Martin Chandler BSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 October 2021

Appeal Ref: APP/M3645/W/20/3263768

Highcombe, Long Hill, Woldingham CR3 7EP

- 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 Wyle De Yola against the decision of Tandridge District Council.
 - The application Ref 2020/1290, dated 17 July 2020, was refused by notice dated 29 September 2020.
 - The development proposed was originally described as: 'The proposed scheme is for the demolition of the existing house and detached garage. Erection of two detached houses with attached garages, pool building and secured bin stores.'
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) the effect of the proposal on trees;
 - ii) the effect of the proposal on the character and appearance of the surrounding area;
 - iii) the effect of the proposal on local biodiversity; and
 - iv) whether the proposal would make suitable provision for renewable energy technologies, having regard to the requirements of local policy.

Reasons

Trees

3. The appeal site hosts several mature and substantial trees both within the site and around its perimeter. The arboricultural report that accompanied the original planning application confirmed that 41 individual trees and one group of trees were surveyed. Of those trees, 9 were categorised as category A trees, and 27 category B. Accordingly, it is apparent that the trees are a fundamental and overwhelmingly positive feature of the site, a matter that is ably demonstrated by the number of trees that are formally protected.
4. Due to the siting of House 2, the proposal would see the removal of two protected category A Yew trees (T9 and T10), which are located towards the northern boundary of the site. Whilst not obviously visible from the public realm, these are relatively young trees that have a pleasing appearance which

- contribute individually and collectively to the pleasing and heavily treed environment.
5. House 2 would also be surrounded by large and dominant trees, including the category A Horse Chestnut (T1), Lawson Cypress (T26), and Cappadocian Maple (T40). The submitted Tree Protection Plan (TPP) confirms that the siting of House 2 would intrude into the root protection areas (RPA) of these trees. The report also confirms that pruning to facilitate the proposed dwelling would be required for T1 and T40. Moreover, where the building intrudes into the RPAs, the TPP recommends areas of low-invasive foundation construction that would consist of mini-piles and above ground level ground beams with a suspended ground slab. Accordingly, the TPP confirms that the only excavation within the RPA shall be for the installation of mini-piles.
 6. The arboricultural information that accompanies the proposal is substantial and seeks to provide sufficient comfort that the retained trees would not be compromised by the development. However, the trees identified above are fundamental to the pleasing treed environment provided by the site and based on the evidence before me, the siting of House 2 would be significantly and demonstrably intrusive on their RPAs and canopy. Although the use of a low-invasive foundation construction may provide protection, in my judgement, the evidence in relation to this point when weighed against the value of the trees is limited. For example, no large-scale details or specific method statement has been provided to demonstrate how this construction may suitably be installed. Moreover, although certain drawings hint at a suspended ground slab, particularly on what is labelled the east elevation, the package of drawings does not present a compelling case regarding the protection of the trees.
 7. Accordingly, although the trees have not been disregarded, based on the evidence before me, their ongoing protection has not been comprehensively demonstrated. Due to their significance and importance to the site and the broader surroundings, I find this to be a substantial shortcoming of the proposal. Moreover, their importance is such that leaving this matter to be controlled by a suitably worded planning condition would present too much risk to the trees, and I am therefore not satisfied that such a condition would comply with the tests established within the National Planning Policy Framework (the Framework) regarding the use of conditions.
 8. As a consequence, due to the lack of detailed evidence, I conclude that the proposal would have a substantially harmful effect on the important trees on the site. It would therefore fail to comply with Policy DP7 of the Tandridge Local Plan Part 2: Detailed Policies (2014) (LP), Policy CSP18 of the Tandridge District Core Strategy (2008) (CS) and guidance contained within the Tandridge District Tree and Soft Landscaping Supplementary Planning Document. Taken together, these seek amongst other things, high quality design which integrates effectively with its surroundings and which has regard to important trees. This is a matter of fundamental concern and it is therefore something to which I attribute very substantial weight.

Character and Appearance

9. As identified above, the appeal site currently hosts numerous mature and important trees. In addition, the existing dwelling sits somewhat centrally within the site, with space around it. The surrounding environment contains

houses that vary in their architectural appearance as well as their plot sizes. Opposite the appeal site, dwellings are situated within regular sized plots, however, the broader context includes larger houses set within space. The site is also bounded by a primary school which benefits from space about it. Although there is a variety of architecture and plot sizes within the locality, a consistent theme is the abundance of landscaping and mature trees which combine to create a pleasant and verdant environment. Accordingly, due to the space about the existing dwelling and the presence of important trees on the site, in its current form, the appeal site makes a positive contribution to the established character and appearance of the area.

10. The proposal would introduce two new dwellings onto the site, following the demolition of the existing building. They would be of a modern architectural appearance consisting of simple façade treatments with large window openings and flat roofs. The proposed architecture would represent a striking difference to other dwellings in the locality. However, the abundance of landscaping would soften their presence within the street, and due to the variety of houses in the locality, I am satisfied that the architectural approach need not be to the detriment of the prevailing character and appearance.
11. However, the site layout is such that House 2 would be close to its site boundaries with much of the remaining space occupied by mature trees. Accordingly, the building would not benefit from much meaningful space about it. Moreover, as identified above and based on the evidence before me, the proposal would also cause harm to the important trees on the site. Although House 1 would have demonstrably more space about it, for the reasons identified above, House 2 would appear cramped on the site. This would be at odds with the prevailing character of the area whereby houses generally have perceivable space about them. Accordingly, due to its cramped appearance, the proposal would be detrimental to the pleasing environment.
12. I therefore conclude that the proposal would have a demonstrably harmful effect on the character and appearance of the surrounding area. It would therefore fail to comply with Policy CSP19 of the CS, Policies DP7 and DP8 of the LP, and Policies L1 and L2 of the Woldingham Neighbourhood Plan (2016). Taken together, these seek amongst other things, development of a high quality design, that is appropriate in size and scale, and which integrates effectively with its surroundings.

Biodiversity

13. The proposal has not been accompanied by any ecological survey work in relation to likely habitats or the presence of protected species. Despite this, the appellant refers to an extant planning permission which would see the demolition of the existing dwelling and its replacement with a detached house with pool building, front wall and gates, shed and badminton court. The Council have confirmed that this proposal has been commenced and that therefore it could be implemented. However, although I do not have the specific details before me, it is clearly a substantially different development to that proposed through this appeal. Moreover, any survey work that accompanied the extant permission would now be substantially dated.
14. Paragraph 180 of the Framework establishes the principles that should apply when determining development proposals. However, this is based on decision makers understanding the ecological value of the site in the first instance. In

addition, Circular 06/2005¹ confirms that the presence of a protected species is a material consideration when a development is being considered which would be likely to result in harm to the species or its habitat. It goes on to state at Paragraph 99, that *'it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before planning permission is granted.'*

15. In the absence of up-to-date ecological surveys, the requirements of the Framework and the Circular cannot be adequately discharged. Accordingly, on the basis of the evidence before me, I conclude that the proposal would have a harmful effect on local biodiversity. It would therefore fail to comply with Policy CSP17 of the CS and Policy DP19 of the LP, which taken together, seek amongst other things, development proposals which protect biodiversity.

Renewables

16. Although limited information accompanied the original planning application, through the appeal, it has been confirmed that the proposal would use ground source heat pumps and solar panels. In their evidence, the Council have confirmed that had such information accompanied the application, this would likely have met the requirements of local policy, subject to further information regarding location.
17. I have no reason to disagree with the Council's approach in this regard, and I am satisfied that if required, the necessary information could be secured through the use of a suitably worded planning condition. Subject to such an approach, I conclude that the proposal would make appropriate provision for renewable energy technologies. On this basis, it would comply with the requirements of Policy CSP14 of the CS, which requires development proposals to make a 10% reduction in carbon dioxide emissions through the provision of renewable energy technologies.

Other Matters

18. Based on the evidence before me, the Council cannot currently demonstrate a five year supply of deliverable housing sites. Accordingly, this engages Paragraph 11 of the Framework, also known as the presumption in favour of sustainable development. This states that where the policies which are most important for determining the proposal are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
19. In terms of benefits, the proposal would make a small but important contribution to local housing supply, in a sustainable location with good access to local services and facilities. Economically, the proposal would create construction jobs as well as bringing additional expenditure into the local economy. In addition, the proposal would represent a development site that could be built out quickly. These matters weigh in favour of the proposal, however, due to the scale of the development, the weight is only limited.
20. As identified above, the proposal would cause harm to the important trees on the appeal site, as well as harming the character and appearance of the surrounding area. Moreover, in the absence of survey work, the proposal would

¹ Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System

fail to meet local and national requirements in terms of protecting biodiversity. These are all matters of fundamental concern and consequently, when taken together, I am quite satisfied that these adverse impacts would significantly and demonstrably outweigh the benefits of the proposal. Accordingly, the proposal would not benefit from the presumption in favour of sustainable development.

Conclusion

21. For the reasons identified above, the appeal should be dismissed.

Martin Chandler

INSPECTOR