



Appeal Decision

Site visit made on 24 November 2021

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th December 2021

Appeal Ref: APP/X2220/W/21/3276174

Land Adj. to "Hours", Church Road, Coldred, Kent, CT15 5AQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr & Mrs A Caister-Softley against Dover District Council.
 - The application Ref DOV/21/00311, is dated 15 March 2021.
 - The development proposed is described as ground works for stabilisation to include the infilling of the disused railway cutting to stabilise the Oak tree root systems which are failing due to exposure. The tree roots would in usual circumstances stabilise the soil and tie layers together to prevent soil displacement, but due to the slippage of soil off of the chalk over many years the Oak tree roots are now exposed. Our recent arboricultural survey by PJC consultants felt the infill imperative action to preserve the life of the existing root exposed Oak trees.
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Decision

1. The appeal is dismissed and planning permission for ground works for stabilisation to include the infilling of the disused railway cutting to stabilise the Oak tree root systems which are failing due to exposure. The tree roots would in usual circumstances stabilise the soil and tie layers together to prevent soil displacement, but due to the slippage of soil off of the chalk over many years the Oak tree roots are now exposed. Our recent arboricultural survey by PJC consultants felt the infill imperative action to preserve the life of the existing root exposed Oak trees is refused.

Preliminary matters

2. Since the council prepared its committee report the National Planning Policy Framework 2019 (2019 Framework) has been replaced by the National Planning Policy Framework 2021 (The Framework). Within The Framework paragraphs 127, 170 and 197, which are referred to in the committee report have been renumbered 130, 174 and 203. For the avoidance of any doubt, I confirm that this decision is based upon The Framework.
3. The application site is shown on the location plan as including the whole of the former railway cutting and the submitted block and other plans do not make any distinctions between the two sections of the cutting. Notwithstanding this, both the Council's delegated report and the appellant's statement clearly state that the proposed infilling only relates to the section of the cutting between Church Road and footpath No.ER94. The appeal has been determined on this basis.

Main Issue

4. The main issue is the effect of the proposal on the character, appearance and historic significance of the site.

Reasons

5. Coldred is a small dispersed rural settlement with two clusters of development around the junctions at either end of Church Road, which are within the Coldred Conservation Area (CCA). The appeal site is located mid-way between the two parts of the CCA and comprises part of the former railway cutting that served the East Kent Light Railway (EKLR). The EKLR was opened in stages from 1911/12 to support the development of new collieries and this particular cutting formed part of a former branch line that connected to Guilford Colliery, which was abandoned in 1921.
6. The only remnants of the colliery are the winding house and one other building which are now in residential use. The council has stated that it is understood that rails were lifted from this branch in 1937, although were partly re-laid to provide stabling for rail-mounted guns during the second world war. The appellants have submitted an undated plan which shows the extent of the cutting and a photograph taken in 1953 which shows a road bridge over the cutting.
7. Today, a line of trees follows the route of the railway line and the cutting on the north-western side of Church Road has been filled. Similarly, the cutting under the former road bridge has been filled. To the southeast of Church Road the cutting is screened by a tall fence and hedging. It can however be seen from the public footpath which crosses the cutting a short distance beyond the rear boundary of "Hours". This footpath is elevated above the cutting and provides clearly identifiable views of the cutting on either side of the path.
8. As the only remaining section of this particular road cutting, the appeal site is of local industrial archaeological interest. Both on its own and together with the former railway buildings, located a short distance to the east, the cutting forms part of the history of Coldred, as well as that of the East Kent Coalfield. These factors all contribute to the significance of this non-designated heritage asset.
9. Policies DM15 and DM16 of the Dover District Local Development Framework Core Strategy 2010 (CS) and paragraph 174 of the Framework seek to enhance and contribute to the natural and local environment by ensuring that the intrinsic character and beauty of the countryside is recognised and that new development is sympathetic to local character and history. Development should contribute to maintaining or establishing a strong sense of place and remediating and mitigating derelict and unstable land where appropriate. Paragraph 203 of The Framework advises that the effect of a proposal in the significance of a non-designated heritage asset should be taken into account when determining the application.
10. With the proposal the cutting within the western section of the application site would be filled and the adjacent bank on the southern side of this part of the cutting would be raised to form a continuous gentle slope between the northern edge of the cutting and the boundary of the property at "Hours". All physical evidence of this part of the cutting would be lost and the only physical evidence

of the route of the railway line in this location would be the trees along the sides of the banks of the cutting.

11. This tree line is primarily made up of mature European Ash, a significant number of which are suffering from various degrees of folia dieback. The submitted arboricultural hazard evaluation survey schedule recommends that 24 of Ash trees within the application site should be felled/removed and that another six should be monitored annually. The immediate and potential future removal of these trees would open up the site. Not only would this further change the character and appearance of the site, it would reduce further the remaining physical evidence of the railway line route.
12. I note that all of the trees within the site are subject to a tree preservation order, although there is no requirement to replace trees that fall, or are removed for health reasons. Whilst the application details state that native trees would be planted to replace lost trees, no details are provided.
13. As a result of these factors the proposal would result in some harm the character and appearance of the site and its setting. It would also result in the total loss of part of the cutting and a number of trees which mark the line of the railway line. This would have a materially harmful impact on the significance of this non designated heritage asset. Having regard to the level of harm that would be caused to the non-designated heritage assets and its setting, the proposal would need to be essential to outweigh such harm.
14. As acknowledged by the council, this is not the end of the matter. There are a number of Oak and other trees sited alongside the cutting and I noted some roots protruding out of the banks on the sides of the cutting. The proximity of the trees to the banks will have restricted the trees usual root growth patterns and this could affect their long-term stability. Also, it was clear that parts of the banks are not particularly stable. The loss of any of these Oak and other trees due to these locational factors would have an adverse impact on the character and appearance of the site and its setting. It would also further erode the physical evidence of the route of the railway line.
15. A full tree survey, arboricultural assessment and structural survey have not been submitted. Without an arboricultural assessment and structural survey it is unclear as to whether it is necessary or appropriate to completely fill the western part of the cutting, or whether less invasive methods could be used to stabilise the banks; secure the long-term health of the trees; and prevent further subsidence to the dwelling at "Hours". Evidence on the need for and impact of raising the level of the land on the southern side of the bank is similarly not provided.
16. For these reasons I conclude on the main issue that, on the basis of the limited evidence submitted, it has not been demonstrated that the proposal is necessary. It would thus result unjustified material harm to a non-designed heritage asset and its setting, contrary to CS Policies DM15 & DM16 and paragraphs 174 and 203 of the Framework.

Other matters

17. Concern has been expressed by residents that the proposal would impact on wildlife. During my site visit the chalk lined cutting and its banks included a variety of planting, surfacing, leaves, wood, etc., which have the potential to

provide food and habitats for a number of wildlife species. Without a site-specific habitat survey, it is not possible to assess whether the proposal would have a beneficial or negative impact on wildlife habitats, including those associated with protected species. Had I found in favour of the appellant on the main issue, this is a matter about which I would have sought the views of both the appellant and the council.

18. Whilst I note the comments made regarding the new boundary fence, this is a matter that falls outside the scope of this appeal.

Conclusion

19. Having regard to the conclusion of the main issue, the appeal is dismissed.

Elizabeth Lawrence

INSPECTOR