
Appeal Decisions

Site visit made on 7 November 2022

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th November 2022

Appeal A Ref: APP/M2270/W/21/3278971

Dulwich Preparatory School, Corse Horn Lane, Cranbrook TN17 3NP

- 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 Progressive Developers Ltd against the decision of Tunbridge Wells Borough Council.
 - The application Ref 21/00584/FULL, dated 18 February 2021, was refused by notice dated 19 May 2021.
 - The development proposed is described as Erection of a pair of semi-detached houses and one detached house. Revised siting and design for Plots 6, 7 and 8. Revised parking and garaging arrangements. Incorporation of additional land in the garden areas of Plots 6, 7 and 8 (revisions to planning permission 19/02136/FUL).
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Appeal B Ref: APP/M2270/W/21/3285689

Dulwich Preparatory School, Corse Horn Lane, Cranbrook TN17 3NP

- 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 Progressive Developers Ltd against the decision of Tunbridge Wells Borough Council.
 - The application Ref 21/02629/FULL, dated 29 July 2021, was refused by notice dated 29 September 2021.
 - The development proposed is described as Erection of a pair of semi-detached houses and one detached house. Revised siting and design of Plots 6, 7 and 8 of permission 19/02136 together with revised parking and garaging arrangements. Incorporation of additional land to garden areas.
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Decision

1. Appeals A and B are dismissed.

Preliminary Matters

2. As set out above there are two appeals at this address. Given that the nature of the proposal and the Council's reasons for refusal are similar in each case, I have dealt with both proposed developments in this single decision letter.
3. The principle of redeveloping this site for housing has already been established by the grant of planning permission ref: 19/02136/FULL. These latter proposals only relate to part of the original site being plots 6, 7 and 8. The proposals seek to redesign and re-site plots 6 and 7. The red line application site area has changed to increase the garden size for the dwellings. The design of the dwellings between Appeals A and B have only changed slightly with plots 6 and 7 hosting either a full hip or half hip roof and plot 8 having a differing number of windows in the southern and northern elevations.

4. Appeal A has a fourth reason for refusal relating to the absence of a legal agreement to secure financial contributions towards primary education, libraries, youth services, play facilities and the community centre. The Council in its officer report relating to Appeal B has commented that the financial contributions sought have been secured and, for this reason, advises that refusal reason four falls away. I have considered the appeals on the basis that refusal reason four relating to Appeal A is no longer before me.
5. A revised version of the National Planning Policy Framework (the Framework) has been published since the planning application subject to Appeal A was determined by the Council. I have had regard to the revised Framework in reaching my decision.

Main Issues

6. The main issues raised by these appeals are the effect of the proposed development upon: -
 - a) The character and appearance of the area and the High Weald Area of Outstanding Natural Beauty (AONB);
 - b) Trees that are protected by a Tree Preservation Order (TPO); and
 - c) Designated and non-designated heritage assets.

Reasons

Character and appearance

7. The site forms part of the High Weald AONB which is one of the best preserved medieval landscapes in North West Europe. Objective S3 of the High Weald AONB Management Plan seeks to '*enhance the architectural quality of the High Weald and ensure development reflects the character of the High Weald in its scale, layout and design*'. The site falls within Character Area 4 of the Landscape Character Assessment. This indicates that the area is characterised by dispersed farmsteads, which retain their characteristic features and materials, with locally distinctive buildings.
8. The original planning permission for a pair of semi-detached dwellings at plots 6 and 7 replicated traditional farm workers cottages within their design. This was considered by the Council to be a well-designed approach that would use traditional materials and be in character with the locality. The redesign of plots 6 and 7 would take a more modern approach to the design and incorporate integral garages and additional bedroom/home office. Furthermore, the width and massing at second floor and roof level would be greater than the approved scheme. Within both appealed proposals the approach to the design of these semi-detached dwellings is one more akin to modern designed dwellings.
9. The approved scheme had a long catslide roof to one side which was different to that of the rest of the resulting development. It is contended that the roof form would be more akin to the other properties within the development and the dwellings would host similar matching vertical tile hanging and brickwork with the garages being of traditional design. Whilst the proposal would incorporate a barn hip roof to the projecting front gable which is consistent with those dwellings at plots 2 – 5, the approved semi-detached dwellings had a more traditional roof form in terms of its depth, eaves height and design.

The shallower roof as now proposed would be of a poorer design and would appear visually poor for this reason.

10. The Framework indicates that great weight should be given to conserving and enhancing the landscape and scenic beauty in National Parks, the Broads and AONBs, which have the highest status of protection in relation to these issues. The redesign of this pair of semi-detached properties would be visually harmful. The visual harm would be apparent in public views therefore the proposals would result in a clear visual harm to the AONB landscape.
11. For these reasons, I conclude that the proposed developments would be harmful to the character and appearance of the area and the High Weald AONB. The proposal would therefore conflict with Core Policies 4, 5, 12 and 14 of the Tunbridge Wells Borough Core Strategy (Core Strategy) 2010, Policies EN1 and EN25 of the Tunbridge Wells Borough Local Plan (Local Plan) 2006, the Kent Design, Tunbridge Wells Borough Landscape Character Assessment 2017 and the High Weald AONB Management Plan 2019-2024. These policies seek, amongst other matters, development to be of high-quality design and to conserve and enhance rural landscapes and the natural and scenic beauty of the High Weald AONB landscape. This also reflects the objectives set out in the Framework and with which the proposal would also conflict.

Trees

12. The built form of the dwellings at plots 6 and 7 would be wider than those within the approved development. Originally plot 6 had a garden to the side, an area that would not have been oversailed by trees, however the revised proposals would extend into that garden area. The rear garden area relating to plot 6 would be dominated by the existing trees that are subject to TPO. The windows for plot 6 would directly face the trunks of trees that would be within its rear garden, nonetheless, plots 6 and 7 would be no nearer the trees than that of the approved scheme. The appellant's Arboricultural Statement points to this. With regard to the internal habitable living environment relating to plot 6, outlook from and daylight experienced within the dwellings by future occupiers at plot 6 would not be substantially different than that of the approved scheme.
13. Notwithstanding the above, the outdoor space immediately around the dwelling would be dominated and oversailed by the trees, which may still be subject to future growth. The tree canopies would overshadow the outdoor living space of plot 6 and this is likely to be over a considerable portion of the day resulting in this living environment being heavily shaded. The appellant's Arboriculturalist considers that for a family home the availability of natural shade for pets/children during the hottest part of the day in the summer is a positive, not a negative. However, it would also be reasonable for an occupier to appreciate the warmth of sunlight at other times of the day as part of the enjoyment of their home.
14. I accept that the TPO could control works to the trees or their removal. However, the effect on light would make it hard to resist future works to the trees or their removal. As a result, the trees are likely to be subject to increased pressure from the occupiers of plot 6 to significantly reduce the canopies or to totally remove the trees to eliminate shading and improve light for enhanced enjoyment of the garden. Either the reduction in size of the trees or their removal, individually or collectively, would diminish the valuable visual

contribution these large prominent trees make to the character and appearance of the area and the High Weald AONB landscape.

15. For these reasons, I conclude that the proposed developments would be harmful to the protected trees and their loss or significant pruning would be harmful to the character and appearance of the area. The proposal would therefore conflict with Core Policy 4 of the Core Strategy, and Policies EN1 and EN13 of the Local Plan. These policies seek, amongst other matters, development to conserve and enhance the landscape value of the High Weald AONB.

Designated and non-designated heritage assets

16. There are a number of listed buildings to the south of the site, including 'Old Cloth Hall' and some Dulwich school buildings. To the west 'Paddocks Farm' is also listed and forms part of a historic farmstead. The listed buildings and historic farmsteads are 'assets of particular importance'. The rural setting of this landscape and historic buildings within it is of heritage significance.
17. It was previously considered that given the existing built development at the site, along with the quality of the proposed development, and distance/separation between the site and the heritage assets, any impact on the setting of designated heritage assets would be negligible. Whilst I have found that the redesign of the proposed semi-detached dwellings would be visually harmful, given the distance/separation between the site and the heritage assets, any impact on the setting of designated or non-designated heritage assets would be negligible. Consequently, the significance of the heritage assets would not be affected.
18. For these reasons, I conclude that the proposed developments would not cause harm to designated and non-designated heritage assets. As such, the proposed development would comply with Core Policies 4 and 14 of the Core Strategy and the Landscape Character Assessment. These seek, amongst other matters, the positive management of heritage assets and to conserve and enhance buildings of historic importance.

Other matters

19. The revised schemes would comprise a home office which, having sought advice from local agents, would make the properties more marketable. Whilst this is a benefit of the proposals, it does not outweigh the harm that I have identified to the character and appearance of the area and the AONB, as well as to the TPO trees.

Conclusion

20. Whilst I have found in favour of the appellant in terms of the effect on the third main issue, this does not overcome the identified harm in relating to the first and second main issues. Having regard to the above findings, the appeals should be dismissed.

Nicola Davies

INSPECTOR