



Appeal Decision

Site visit made on 21 May 2024

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 June 2024

Appeal Ref: APP/G2245/D/23/3329509

Tyro, St. Clare Hill Road, West Kingsdown, Kent TN15 6AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr T King against the decision of Sevenoaks District Council.
 - The application Ref is 23/01594.
 - The development proposed is the erection of double garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was lodged, a revised National Planning Policy Framework (the Framework) has been published, however the changes do not materially alter the sections of the Framework most relevant to this appeal. Any references to the Framework hereafter in this decision are to the latest version.
3. The appeal site is located within the Green Belt. The Framework confirms that the Government attaches great importance to Green Belts. The identified fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.
4. The Council consider that the proposal would be subservient to the existing property and would not compromise the openness of the Green Belt. Based on the plans before me and my observations on site I see no reason to take a different view. Accordingly, the proposal is not inappropriate development in the Green Belt and does not conflict with policy as set out in the Framework or the Sevenoaks District Council Core Strategy (SCS) adopted February 2011, on this matter.

Main Issue

5. The main issue is the effect of the proposed development on the ancient woodland.

Reasons

6. The appeal proposal comprises a relatively modest single storey detached double garage associated with the existing dwellinghouse, which sits on an existing small clearing within a heavily wooded area. The area surrounding the site (known as Knockmill Wood), is also protected by a group Tree Preservation Order (TPO).

7. There is dispute between the parties in respect to whether the proposal is located within an area identified as an ancient woodland. The appellant suggests that the appeal site has been removed from the designated ancient woodland, following the approval of planning permission¹ for a replacement dwelling. However, the Council indicate that the site is retained within the designated area. Nevertheless, I have not been furnished with a map identifying the extent of the ancient woodland nor details of the relevant boundary.
8. The Planning Practice Guidance and the Framework advises that ancient woodland is an irreplaceable habitat and is an area that has been wooded continuously since at least 1600 AD. Paragraph 186 c) of the Framework states that development resulting in the loss or deterioration of ancient woodland should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists.
9. Furthermore, standing advice published by Natural England and the Forestry Commission recommends that for ancient woodlands, development proposals should have a buffer zone of at least 15 metres from the boundary of the woodland to avoid root damage within root protection areas (RPAs).
10. Even if I was to accept the appellants assertion that the appeal site is no longer within the ancient woodland, the positioning of the proposed garage is within 15 metres of the red line boundary, thus is still likely to fall within the buffer of the ancient woodland recommended in the standing advice. The standing advice sets out that indirect effects of development can cause the loss or deterioration of ancient woodland by, among other things, breaking up or destroying working connections between woodlands, reducing the resilience of the woodland or trees making them more vulnerable to change, and pressure for tree management.
11. The appellant refers to a previous appeal decision² at the site and highlights that the oak tree referred to by the previous Inspector has now been removed. The appellant further indicates that the subsoil has already been impacted following the completion of the approved replacement dwelling, and that the proposal would not involve the removal of any trees. I acknowledge that works associated with the existing house have been undertaken in close proximity to the boundary, similar to that proposed here. Nonetheless, no details have been supplied with the appeal in respect to any foundation works for the proposed development, nor an arboricultural impact assessment (AIA) in respect to potential impacts on the RPAs of any trees, including those subject to the TPO.
12. Given the proximity of the proposal to the existing trees outside the appellant's ownership, there would be potential for their RPAs to be impacted. Furthermore, no evidence has been submitted with the appeal to indicate whether any protection for these trees during construction would be possible. In the absence of any evidence highlighting that the trees could be protected and retained or any information to the contrary, I must adopt a precautionary approach. As no suitable evidence has been presented, I find that it has not been demonstrated that the development could proceed without harm to the surrounding trees.

¹ Sevenoaks District Council Planning Ref: 19/03339/FUL

² PINS Ref: APP/G2245/D/21/3288913

13. Consequently, there is insufficient evidence at this stage to demonstrate that the development would not harm TPO trees nor the ancient woodland. The proposal would therefore conflict with SCS Policy SP11 which amongst other things seek to protect and conserve biodiversity habitats and the provisions of the Framework which aim to conserve and enhance the natural environment.

Conclusion

14. Given that it has not been demonstrated that the proposed development would not harm the adjoining ancient woodland the scheme would be contrary to the development plan when taken as a whole. There are no material considerations worthy of sufficient weight that would indicate a decision otherwise than in accordance with it. The appeal is therefore dismissed.

Robert Naylor

INSPECTOR