



Appeal Decision

Site visit made on 8 October 2024

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th November 2024

Appeal Ref: APP/E2205/W/24/3337797

The Vicarage, Church Road, Tenterden, Kent TN30 6AT

- 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 Venerable Stephen Taylor of Canterbury Diocesan Enterprises Limited against the decision of Ashford Borough Council.
 - The application reference is PA/2023/1374.
 - The development is described as 'proposed alterations to Vicarage, erection of three detached dwellings and construction of twenty bay Church car park.'
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Decision

1. The appeal is dismissed.

Application for Costs

2. A costs application has been made by Venerable Stephen Taylor of Canterbury Diocesan Enterprises Limited against Ashford Borough Council, which is the subject of a separate Decision.

Preliminary Matters

3. As the appeal site lies within a conservation area and forms part of the setting of a listed building, I have had special regard to sections 72(1) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. Following the Council's determination of the planning application, the Tenterden Neighbourhood Plan 2013-2030 (the NP) was made in October 2024. The Council has submitted copies of the policies from the NP, which they consider are most relevant to this appeal. The appellant has been given the opportunity to comment on this matter and I have taken their comments into consideration during the determination of this appeal.

Main Issues

5. The main issues are the effect of the proposal on:
 - the character and appearance of the area, having special regard to the desirability of preserving the setting of a Grade I listed building, known as 'Parish Church of St Mildred' (Ref: 1355024) and the extent to which the proposal would preserve or enhance the Tenterden Conservation Area (CA);
 - trees; and,

- the provision of community facilities in the locality.

Reasons

Character and appearance

6. The appeal site lies within the settlement boundary for Tenterden and is sited to the rear of the Church. The appeal site includes a community hall, known as 'Glebe Hall' and the Vicarage, which was constructed in the 20th century. The Vicarage is set within a large garden and is accessed via a long, tree-lined driveway. To the south of the appeal site is the High Street. The majority of buildings along the High Street are historic, with many of them listed. The appeal site is located at the edge of the settlement, adjacent to an open field.
7. The appeal site lies within the High Weald National Character Area, which is described by Natural England as '*an area of ancient countryside and one of the best surviving medieval landscapes in northern Europe.*'¹ The Kent Downs Area of Outstanding Natural Beauty (AONB), which is a designated National Landscape is located approximately 250 metres away from the appeal site. The National Planning Policy Framework, December 2023 (the Framework) requires that great weight is given to conserving and enhancing the landscape and scenic beauty of AONBs. Paragraph 182 of the Framework states that development within the setting of an AONB '*should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.*'
8. This part of the National Landscape is characterised by historic settlements, which are nestled within a rolling and predominantly agricultural landscape. The appeal site lies in an elevated position, with long-distance views available of the picturesque countryside. The built form and soft landscaping within the appeal site are visible in various viewpoints from the public realm and surrounding landscape, including in views from Public Rights of Way (PRoW) AB19 and AB22, which both fall within the National Landscape. Both of these viewpoints have a moderate to high sensitivity to change. The verdant and relatively open character of the appeal site provides a sensitive transition between the historic settlement and the countryside. As a result, the appeal site makes a positive contribution to the setting of the National Landscape.
9. The Parish Church of St Mildred is a Grade I listed building. Although the listing description states that it dates from the 14/15th century, evidence from both main parties indicates that the Church is of an earlier origin. The Church has a large, crenelated tower, which is constructed of stone. Given its height, siting and its elevated position within the landscape, it is a landmark building, which is visible in many vistas from within the town and the surrounding countryside.
10. The building's special interest stems, in part, from its setting. Insofar as this appeal is concerned, the setting of this asset, as it contributes to its special interest, comprises of the striking juxtaposition between the historic, urban townscape on one side of the Church and the rolling, attractive countryside on the other. The land to the north of the appeal site plays an important role as a transition site between the town and countryside. The verdant and more open nature of the appeal site maintains the historic relationship of the Church with the Parish it serves and the local rural landscape, within which it sits. This

¹ National Character Area Profile 122: High Weald (NE508)

conveys the building's enduring functional and communal importance. These qualities of the Church's wider setting make a positive contribution to its special interest and reinforce its high status as a Grade I listed building of exceptional interest.

11. The appeal site lies within the Tenterden CA. The CA is centred around the medieval street pattern that forms the historic core of the town. The CA contains a multitude of high quality historic buildings, which signifies the town's evolution as a historic market town. While the core of the town contains high density development, the open spaces within the town and at the edge of the settlement contribute to the CA's historic and aesthetic value. The significance of the CA, insofar as is relevant to this appeal derives from the high quality historic architecture within it, including the medieval Church and the green and open spaces within and surrounding the settlement.
12. The proposal seeks to replace the 'Glebe Hall', with a two storey dwelling. 'Glebe Hall' is a modest, timber-clad community hall, which has a shallow pitched roof and is single storey in height. It is in a poor condition and of low architectural significance. Given the modest size of the hall, it is not a prominent building within the CA or in views from the surrounding landscape.
13. The proposed dwelling would be set further back in its plot than 'Glebe Hall' and the adjacent buildings along Church Road. Its set back position means that the proposed dwelling would not be visible from the High Street end of Church Road. While the proposed dwelling would utilise traditional materials, it would be bulkier at first floor and roof level when compared to the existing building and would be more prominent in short distance views from Church Road, the PRoW and in views from the surrounding landscape than the existing building.
14. I appreciate that the elevation facing the PRoW would be partially screened from the public realm by the surrounding built form, boundary treatment and soft landscaping. However, given its two storey form with pitched roof, it would exceed the height of the boundary vegetation. With the exception of two rooflights, the elevation facing the PRoW would be devoid of openings and present a relatively featureless façade towards the public realm. The proposal would turn its back on the public realm and would not blend in or be read as a continuation of the existing run of historic buildings along this side of Church Road.
15. The proposal seeks to demolish the existing garage at The Vicarage and construct two detached dwellings. A new storage building is also proposed for the Vicarage. The Vicarage currently has a spacious and well landscaped garden. The side and rear boundaries of the Vicarage garden are enclosed with soft landscaping and boundary treatment. Views are available over the rear boundary treatment of the historic buildings within the High Street. More open views of the surrounding landscape are available to the front of the property. The appellant states that the garden is too large to be maintained by the occupant of the Vicarage and has an unkept appearance. However, I did not find that the condition of the garden detracted from the character and appearance of the area.
16. While the proposed design, scale and materials would reflect the existing dwelling on site, the proposal in combination with the existing dwelling would extend the built form significantly across the site, providing only small gaps

between buildings for visual relief. The frontage of the existing and proposed dwellings would be dominated by hardstanding, which would have a harmful urbanising impact on the locality.

17. The proposal would result in the loss of an area of car parking adjacent to 'Glebe Hall'. Additional parking is proposed alongside the driveway to the Vicarage. This area is currently used for informal car parking. The proposal would result in the loss of a number of trees. While the majority of trees to be lost fall within categories C and U, two category B trees (which have an estimated remaining contribution of over 20 years) would also be felled to facilitate the development. Collectively, this group of trees makes a positive contribution to the character and appearance of the CA and the settings of the Church and the National Landscape. The proposed replacement tree planting would take some time to mature and would not offer the density and breadth of tree cover that currently exists.
18. The proposal would result in additional built form, extensive hard landscaping and the loss of greenery and trees within part of the Church's wider setting and at the edge of the CA. This would erode the relatively open and verdant nature of the site, adversely altering the Church's wider setting and failing to preserve the character and appearance of the CA.
19. I acknowledge that the appeal site is, to a degree, visually separated from the Church by mature vegetation. However, the absence of a strong visual connection is not a determinative factor. Nevertheless, this visual separation would be somewhat depleted as a result of the proposed tree loss. The proposal would have a harmful urbanising impact on the locality, which would fail to preserve the setting of the Church, diminishing the positive contribution the setting makes to the asset's special interest. Overall, the proposal would harmfully alter important attributes of the Church's wider setting and affect the authenticity of how the asset is experienced. Accordingly, this would diminish the positive contribution that the Church's wider setting makes to its special interest.
20. I appreciate that the appeal site backs onto higher density development on the High Street. The density of the development would also be less than the consented scheme for two detached dwellings on an adjacent piece of land². While the consented scheme included the demolition of a section of a listed wall and the removal of some protected trees, there are limited details before me of the circumstances of the consented scheme. The consented scheme was also determined under a different policy context. Furthermore, the current appeal site is located closer to the Grade I listed building and is more visible from the public realm than the consented scheme. As a result, the consented scheme is materially different to the current appeal scheme and I give it limited weight in my decision.
21. For the reasons given above, I conclude that the proposal would cause significant harm to the character and appearance of the area, the CA and would fail to preserve the setting of the nearby Grade I listed building. The proposal would also cause harm to the setting of the National Landscape.

Trees

² Application ref: 18/00099/AS

22. The proposed dwelling on the site of 'Glebe Hall' would be located close to T50 (Ash), which is a category B tree and lies just outside of the appeal site. Although T50 is a young tree, it has a good form. It is of a moderate height and is visible in views from the surrounding countryside and PRoW. In order to allow access to construction traffic the crown of this tree would need to be lifted to 5 metres and the tree would be pruned back by 1.5 metres to clear the proposed building and allow the erection of scaffolding. The appellant states that the pruning would encourage new growth up and over the proposed dwelling.
23. The proposal fails to take into consideration an allowance for future growth of this tree. Although T50 would be sited to the north of the proposed dwelling, as it matures, its branch spread would extend over the proposed dwelling. I appreciate that shading can be a benefit and help to mitigate the impacts of climate change. However, given the close proximity of the tree to the proposed dwelling, the Council are likely to find it difficult to resist applications to prune or fell the tree in circumstances where safety is an issue; where damage is being sustained e.g. root spread; or where the living conditions of a occupants of a dwelling are being adversely affected.
24. In the absence of an Arboricultural Method Statement (AMS), the Council argues that T50 is at risk during the demolition phase of the development. However, I find that the submission of an AMS could be required by condition to address this specific matter. Nevertheless, the other concerns I have identified in respect to trees remain.
25. For the reasons given above, I conclude that the proposal would be harmful to existing trees. The proposal would conflict with Policies ENV3a and ENV14 of the Local Plan. These policies among other things require that all proposals demonstrate particular regard to landscape characteristics including the pattern and composition of trees and woodlands and that trees should be retained where they contribute positively to the character and appearance of the CA.

Community infrastructure

26. The proposal would result in the loss of a community hall, which is in a poor condition. The appellant has drawn my attention to the Lipton Report from January 2017, which identifies that community space in Tenterden is underutilised. I observed on my site visit other community floorspace, including that provided within the Church in close proximity to the appeal site. Since the Council issued their decision notice, planning permission has been granted for an extension to the Church³. The appellant advises that the profits from the sale of the land would go towards funding the extension at the Church, which would provide new and modern community floor space.
27. I appreciate that there is no legal agreement before me to secure the funding from the sale of the land to the extension at the Church. However, given the appellant's connection to the Church; the fact that consent has been secured for an extension to the church; and, the extension forms part of the next phase of the Church's Transition Project (with the other stages implemented); I am satisfied beyond reasonable doubt that the proceeds from the sale of the

³ Application ref: PA/2024/0612

land would be used to fund the extension to the Church, thus providing suitable replacement provision nearby.

28. Given the above, I conclude that the proposal complies with Policy COM1 and HOU3a of the Ashford Local Plan 2030, adopted February 2019 (the Local Plan). These policies among other things seek to resist the loss of existing community infrastructure, unless sufficient evidence has been submitted to demonstrate that they are no longer required or are obsolete and that suitable replacement provision is being provided or is located nearby.

Heritage balance

29. The proposal would cause significant harm to the character and appearance of the CA and the setting of a Grade I listed building. I find the harm to both would be less than substantial, but nevertheless of considerable importance and weight. In accordance with paragraph 202 of the Framework, that harm should be weighed against any public benefits of the proposal.
30. The proposal would align with the objectives of the Framework, which seek to significantly boost housing supply, promote the effective use of land and provide housing within locations that have good accessibility to services/facilities and public transport links. The proposal would provide 3 new family sized dwellings, which would make a modest contribution to the supply of housing within the borough, which I afford limited positive weight.
31. The proposal would help to fund an extension to the Church, which would provide modern and improved community floorspace and enhance the arts and entertainment offer in the town. The proposal would also provide additional car parking for the Church, which would be properly laid out and provide disabled parking and a level access to the Church. However, the proposal would provide replacement community facilities, as opposed to additional facilities. As a result, I give these benefits moderate weight in favour of the appeal.
32. There would be a small economic benefit from the proposal during the construction phase of the development. Furthermore, future residents of the proposed dwellings would help to contribute towards the economic vitality and viability of the town. I give the economic benefits of the proposal limited weight in my decision as a public benefit.
33. The appellant states that the proposal would enable the Diocese of Canterbury to give substantial support to the Transformation Project, which is the best possible way to ensure long-term preservation and enhancement of the Grade I listed building. However, there is no compelling evidence before me to suggest that the use of the Church would cease to function in the absence of the proposal. Nor is an argument before me to suggest that this would be enabling development. As a result, I do not find the proposal necessary to secure the viability and long-term conservation of the listed building.
34. The proposed dwellings would have high levels of insulation and feature among other things renewable energy technologies, rainwater harvesting and electric vehicle charging points. However, there is limited evidence before me that the proposal would be anything more than policy compliant in this regard.
35. Overall, the proposed public benefits carry moderate weight in favour of the development. As a result, the collective public benefits are insufficient to outweigh the great weight afforded to the preservation of heritage assets.

36. For the reasons given above, I conclude that the proposed development would cause significant harm to the character and appearance of the area and would fail to preserve the character and appearance of the CA and the settings of the Grade I listed building and the National Landscape. As a result, the proposal would fail to satisfy the requirements of the Act and the historic development policies of the Framework, including paragraph 203.
37. The proposal would also conflict with Policies SP6, HOU3a, HOU10, ENV3a, ENV13 and ENV14 of the Local Plan. These policies among other things require that development conserves and enhances heritage assets and the character and appearance of the CA and that development within the setting of an AONB conserves or enhances the natural beauty of the AONB; that proposals are of a high quality design and make a positive response to the character, distinctiveness and sense of place; that development of residential gardens does not result in significant harm to the character of the area; and, that existing features, such as trees that are important to and contribute to the local landscape are retained and incorporated into the proposed development.
38. The proposal would also conflict with Policy TEN NP4 of the NP. This policy among other things requires that new development is of a high quality and responds to the heritage and distinctive character of the area; that proposals preserve or enhance designated heritage assets and their settings; and that proposals protect and sensitively incorporate natural features, such as trees within the site.
39. I do not find that Policy TEN NP1 of the NP is relevant to this appeal, as it relates to sites that are located outside of the built confines of Tenterden. While Policy TEN NP3 refers to trees, this policy specifically refers to separation distances between veteran or ancient trees and groups of trees. In this case, the Council's concern regarding separation distances relates to a single tree. Consequently, I find no conflict with Policy TEN NP3.

Planning Balance

40. The Council is unable to demonstrate a 5 year supply of deliverable housing sites. In such circumstances, paragraph 11 d) of the Framework advises that planning permission should be granted, unless policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
41. The Council's housing land supply position is estimated to be between 3.5 and 4.54 years. Therefore, it is evident that there is a pressing need for housing when considering this shortfall. The construction of three new dwellings would make a small contribution towards the Council's housing supply.
42. Nevertheless, the proposal would fail to preserve the character and appearance of the CA and the setting of a Grade I listed building, which are designated heritage assets. The proposal would also harm the setting of the AONB, which is a National Landscape. Consequently, the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development. As a result, the presumption in favour of sustainable development does not apply in this case.

Other Matters

43. While no objections have been raised on ecological or archaeological grounds, this does not alter my findings set out above.

Conclusion

44. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no other material considerations, including the Framework, that would outweigh that conflict. Therefore, I conclude that the appeal should be dismissed.

A James

INSPECTOR