



Appeal Decision

Site visit made on 27 November 2024

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th January 2025

Appeal Ref: APP/M2270/W/24/3349823

Land rear of 172-174 Upper Grosvenor Road, Royal Tunbridge Wells, Kent TN1 2EQ

- 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 and Mrs Szkoda against the decision of Tunbridge Wells Borough Council.
 - The application Ref is 23/03284/FULL.
 - The development proposed is erection of a new build residential dwelling and associated landscaping, car parking, refuse and cycle storage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The procedural guide for planning appeals advises that the appeal process should not be used to evolve a scheme; What is considered by the Inspector should be essentially the same as was considered by the Council and interested parties at the application stage. Any amended plans provided during an appeal must be considered in the context of whether they involve a "substantial difference" or a "fundamental change" to the application, and whether the proposed amendments would cause unlawful procedural unfairness to anyone involved in the appeal.
3. The appellant has provided two plans, ref 2306-P-200B (Proposed Site Plan, Roof Plan and Site Section) and 2306-P-300B (Proposed Floor and Roof Plans), showing an amended scheme with a reduced hard surface area, use of a 'grasscrete' paving system in parking and turning areas, and an increase in the amount of new and retained vegetation.
4. The decision notice cites the loss of vegetation as being material in the reason for refusal and, as such, the amendments relate to an important consideration in the appeal. At the same time, it is common practise for permission to be granted subject to conditions requiring subsequent agreement on landscaping and external materials; Such conditions have been proposed by the Council in this appeal.
5. Furthermore, third party representations include comments on the appellant's statement of case, a document which contains and refers directly to the amended plans. I am content therefore that third parties have had the chance to see those plans, and that including them in my determination would not cause injustice to those third parties.

6. Overall, I consider the amendments shown in plans ref 2306-P-200B and 2306-P-300B to be of a type that may be brought about through subsequent agreement over landscaping and materials, and not to comprise a substantial difference or fundamental change to the application plans, therefore. They have, in any event, been seen by third parties. As such, I have considered those plans as part of the appeal.
7. Since the determination of this application a revised National Planning Policy Framework (the Framework) has been published. The main parties have been given the opportunity to comment. I have considered any comments received and the revised Framework in my decision.

Main Issue

8. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

9. Upper Grosvenor Road (the road) is a long, largely residential, thoroughfare with several smaller streets branching off it. Though housing along the road is of mixed age and architectural style, it generally adheres to the same broad front and rear building lines. Gardens are consistent in depth from one property to the next and are generally free from significant development. These features give the road a clear sense of cohesion.
10. The appeal site (the site) includes a semi-detached residential property arranged in flats (the flats). Land to the front, side and rear of the flats is largely laid to shingle and given over to vehicle access and parking. The proposed development would occupy the furthest part of the site from the road, an undeveloped area behind an established hedge (the plot).
11. The plot is lower than the road and not directly visible from it. Its edges are marked by mature trees and established vegetation. Even so, the plot is visible from outside the site, particularly from an adjacent public footpath (the footpath) that leads from the road to the nearby Grosvenor and Hilbert Park. The boundary between the plot and the footpath is marked in part by trees and a hedgerow which, whilst continuous, was not so dense or tall as to prevent intervisibility during my site visit.
12. The footpath is well maintained, landscaped, and lit. I have no reason to consider it anything other than well-used. From the footpath it is apparent that, even if it does not function as garden land, the plot is nevertheless part of a continuous green corridor running between the road and the railway line. Mature trees, bushes, grass and plants are recurring features therein. Domestic outbuildings are dotted along the green corridor, but they are small, and have little effect on the verdant character of the space. The view of the corridor from the footpath is significant in reinforcing the cohesive character of the road, as described above.
13. The proposed development involves a two-storey detached dwelling of modern, contemporary design. The northern façade would include substantial first floor glazing and a roof terrace facing out onto the footpath. The northern part of the plot would largely be laid to 'grasscrete' and given over to vehicle parking and turning, as well as to a bike and bin store. These features would be close to the site boundary, and to the footpath. At one end of the site the

area between the plot and the railway line would remain undeveloped and verdant. At the other, the proposed development would directly abut the existing shingle parking area for the flats, with a new boundary enclosure separating the two.

14. The orientation of the proposed dwelling so that its longest dimension runs east to west would, in conjunction with its height, result in the dwelling dominating the view of the green corridor from the footpath. The modern design, glazing, and roof terrace would increase the visual prominence of the dwelling further. The proposed boundary between the plot and the parking area for the flats would further disrupt the existing sense of openness. As a consequence of these features, the development would have a distinctly invasive presence in the setting and cause significant harm to the character and appearance of the area.
15. Even if the 'grasscrete' provided a lasting green surface to the northern part of the plot, its use for domestic purposes, particularly parking, would erode the tranquil, undeveloped character of the site and introduce a distinctly suburban one in its place. From the footpath in particular, little of the plot would appear left undeveloped.
16. The existing planting on the northern edge of the plot is not sufficient to prevent views inwards once the leaves have fallen. It is, at any time of year, too short to screen views of the first floor of the proposed dwelling. To sufficiently mitigate views of the proposed development from the footpath a new planting scheme on the northern edge of the plot, whether including the retention of existing vegetation or not, would likely need to be evergreen, tall, and dense. Such a scheme could or is likely to have material effects on outlook and light for users of the footpath and future occupiers of the proposed dwelling. I have no evidence that such an arrangement would be acceptable in these regards and, as such, attach little weight to the possible benefits of screening landscaping.
17. My attention has been drawn to Haslets Close and Birkdale as examples of residential development behind the main frontage on the road. However, these are residential cul-de-sacs akin to the many smaller streets that branch off the road. The proposed development would be noticeably different, being an isolated development behind the main frontage, accessed over a narrow private drive. I attach very little weight to the cited developments, therefore.
18. My attention has also been drawn to permission for a development of 44 apartments at 202 and 230 Upper Grosvenor Road. This is a substantial scheme and involves the creation of a new access road in place of a dwelling rather than the creation of a drive over one property to access another. As such, it is similar to Haslets Close and Birkdale, and not to the appeal scheme. In addition, land behind houses on the road will be left unaffected by the appartements. As a result, that development does not compromise the coherence of the road and the character of the area in the same way the appeal scheme would. I attach minimal weight to the development at 202 and 230 Upper Grosvenor Road, therefore, as neither is directly comparable to the scheme before me.
19. I am informed that an application to erect a pair of semi-detached bungalows at the site was refused in 1989 and that, whilst a subsequent appeal was dismissed, the Inspector did not consider that scheme harmful to the character

and appearance of the area. I am also informed that a 2005 application to erect a bungalow and garage did not, prior to being withdrawn, prompt objections from the Council over character and appearance. I have no evidence to show that either scheme was comparable to the appeal proposal in terms of design, appearance, and layout, or that the policies against which they were considered were similar to those in the current development plan. As a result, I attach minimal weight to the planning history of the site.

20. For the reasons set out above, the proposed development would have a significantly harmful effect on the character and appearance of the area, and would conflict with Policy EN1 of the Tunbridge Wells Borough Local Plan 2006 (the Local Plan) and Policies CP4 and CP9 of the Tunbridge Wells Borough Core Strategy 2010 (the Core Strategy) where they require development proposals to respect site context and to conserve and enhance locally distinctive character.

Other Considerations

21. Set against the harm identified, the proposed development would supply one new home which could be delivered quickly. The site is located in an established residential area within walking distance of local facilities and in easy reach of public transport. The benefits of delivering housing in such a setting carry significant weight, particularly as the Council cannot currently demonstrate a five-year housing land supply, the latest figure being a 3.9-year supply, and the aim of the Framework to significantly boost the supply of new homes. However, the benefits of housing delivery in this particular case are tempered by the modest scale of the scheme.
22. The plot is not currently used and the proposal would make a more effective use of land, which the Framework is supportive of. However, it would not secure a well-designed and beautiful place, which the Framework requires.
23. The development would provide employment temporarily related to the construction period and sustained economic benefits relating to the activities of future occupiers. The modest size of the scheme means that these benefits would be limited, and attract modest weight, therefore.
24. The proposed development would maintain neighbouring amenity and highway safety, and not harm any heritage assets. Notwithstanding my findings above regarding new landscaping, any such scheme could be visually attractive within itself, and include steps to promote biodiversity. In the main, these are policy expectations rather than benefits, and I attach minimal weight to them, therefore.

Planning Balance

25. The weight given to the Local Plan and the Core Strategy does not hinge on their ages, but rather on their degree of consistency with the Framework. According to the Framework the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning development process should achieve, and it requires development to be sympathetic to local character. Therefore, the conflict between the proposal and Policies EN1 of the Local Plan and both CP4 and CP9 of the Core Strategy should be given significant weight in this appeal.

26. The position in respect of housing land supply is such that the provisions of paragraph 11(d) of the Framework are engaged, and 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
27. The appeal proposal would cause harm to the character of the area. I have found that harm to be significant. The Framework requires planning decisions to ensure developments are sympathetic to local character including the surrounding built environment and landscape setting.
28. As described above the benefits associated with one additional dwelling would be modest, even taking account of the objective in the Framework of significantly boosting the supply of housing, and the Council's housing land supply position.
29. In light of the above, the adverse impacts of the appeal proposal on the character of the area would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the scheme does not benefit from the presumption in favour of sustainable development.

Conclusion

30. The proposal would conflict with the development plan when read as a whole. Material considerations, including the Framework, do not indicate that a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

A Knight

INSPECTOR