



Appeal Decision

Site visit made on 10 October 2017

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7th November 2017

Appeal Ref: APP/T1410/W/17/3176753

4 Walnut Tree Walk, Eastbourne BN20 9BP

- 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 Mr John Cudd against the decision of Eastbourne Borough Council.
 - The application Ref PC/170002, dated 4 January 2017, was refused by notice dated 21 February 2017.
 - The development proposed is erection of a detached dwelling with integral garage.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area, with regard to the trees in the site that are subject to a tree preservation order (TPO).

Reasons

Approach to this decision

3. Planning law requires applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The starting point for the determination of this appeal must therefore be the development plan. However, the Council has acknowledged that it cannot currently demonstrate a five year supply of deliverable housing sites (HLS). Given the absence of an HLS, and having regard to the Supreme Court's recent judgement¹ concerning paragraphs 14 and 49 of the National Planning Policy Framework (the Framework), I consider that the fourth bullet point in paragraph 14 of the Framework is engaged. That means:

'where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted'.

¹ Suffolk Coastal District Council v Hopkins Homes Limited and the Secretary of State for Communities and Local Government and Richborough Estates Partnership LLP and the Secretary of State for Communities and Local Government v Cheshire East Borough Council

Character and Appearance

4. The development would involve the construction of a detached house, with an integral garage, in the side garden of 4 Walnut Tree Walk (No 4). The site is essentially triangular in shape and it immediately adjoins the junction between Walnut Tree Walk and Parkway, streets that are residential in character. Walnut Tree Walk, which forms part of the Ratton Estate, is within an Area of High Townscape Value (AHTV), a non-designated heritage asset for the purposes of the development plan. Walnut Tree Walk is characterised by individually designed houses set within comparatively large plots.
5. The site and its immediate surroundings have a sylvan character, with there being a considerable number of trees of mixed species and hedging in or immediately adjoining the site. The significance of many of the trees has been recognised with the making of a TPO which covers eleven individual trees (Ash and Sycamore) and three groups totalling fifteen trees (a mixture of Scots Pine, Willow and Sycamore). Of the trees subject to the TPO there are three Sycamores and three Pines within the site. Some of the vegetation in the site having been planted in association with the implementation of the permission granted for No 4's construction². Immediately to the north of the site there is a small area of open space and there are some substantial trees, of mixed species, in that space.
6. The development would involve the removal of six trees along the site's northern boundary, including one of the protected Pines, and the transplanting of a further six trees. The new house would nestle amongst trees and other planting in and immediately adjoining the site and its siting relative to its northern and western boundaries would be comparatively tight. Notwithstanding that it is intended that the majority of the trees in the site would be retained, I consider that this development would nevertheless have the appearance of being a cramped afterthought, which would be harmful to the character and appearance of the streetscene. That is because siting a house within this site would significantly harden its appearance, a site that I consider occupies an important position at Walnut Tree Walk's and Parkway's junction.
7. While the site is privately owned and is enclosed by low key fencing, it functions as part of the planned, soft landscaped, entrances to both Walnut Tree Walk and Parkway. In that regard it is quite common for the gardens of corner properties, like No 4, to be planned into an estate layout with the purpose of fulfilling a local visual amenity function. Although this site has not been formally designated as either an 'amenity area' or an 'open space', I consider that the absence of such a designation has no bearing on this site's visual amenity value. I consider that siting a house in this site would significantly devalue its visual amenity value.
8. There is disagreement between the appellant's and the Council's arboricultural advisors as to whether the construction of the house and the drive would unacceptably encroach into the root protection area (RPA) for one of the protected Sycamores (identified as T5 by the appellant's arboriculturalist). Tree T5 is a large specimen and there would be some encroachment into its RPA, particularly if this tree's roots have grown asymmetrically because of the proximity of the adjoining road. Accordingly to safeguard tree T5 it is

² Application 030676

proposed that the house would be constructed with piles and beams to enable its floor slab to be raised, while the drive would be constructed above a no dig cellular confinement system.

9. Given the disagreement about the development's implication for tree T5 and this tree's significance in the streetscene, I am inclined to adopt a precautionary approach. I therefore find that it has not been demonstrated that the development could proceed without the wellbeing of tree T5 being unacceptably affected. In this respect while it may be that the building of the house, of itself, would not harm tree T5, I am concerned that the changes to the ground conditions in this tree's root spread could have long term adverse implications for tree T5's wellbeing.
10. I consider the architecture of the house is unobjectionable and that it would be in keeping with that found in the AHTV. However, that aspect of the development's design would not address the harm that I have identified.
11. I conclude that the development would cause unacceptable harm to the character and appearance of the area. The development would therefore be contrary to saved Policies UHT1, UHT4, UHT16, HO6 and NE28 of the Eastbourne Borough Plan of 2003, Policies B2, C12, D10 and D10A of the Eastbourne Core Strategy Local Plan of 2013 and paragraphs 56 and 60 of the National Planning Policy Framework. That is because this residential infill development would not be in harmony with the distinctiveness of the character and appearance of the area, with it resulting in the harmful loss of trees and an area of greenspace that contribute to the AHTV.

Other Matters

12. Reference has been made to a covenant precluding development on this site. The existence of a covenant is not a material planning consideration and I cannot therefore take account of it. Other matters have been referred to, including highway safety and drainage. However, given my finding in relation to the main issue, I consider it is unnecessary for me to comment on the other matters that have been raised.

Planning Balance and Conclusion

13. The development in providing one house would generate some social and economic benefits. In particular the construction of a house would contribute to addressing the current deficiency in the HLS, albeit in a very modest way. However, given the harm to area's character and appearance that I have identified I consider that that harm would significantly and demonstrably outweigh the development's modest benefits.
14. As there would be conflict with both local and national policy I consider that this would be an unsustainable form of development, which could not be made acceptable by imposing reasonable planning conditions. I therefore conclude that the appeal should be dismissed.

Grahame Gould

INSPECTOR