



Appeal Decision

Site Visit made on 28 June 2021

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 19 November 2021

Appeal Ref: APP/V2635/W/21/3268017

Old Rectory, Hall Lane, South Wootton, PE30 3LG

- 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 Azam Gabair against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref: 20/00346/F, dated 3 March 2020, was refused by notice dated 9 December 2020.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published on the 20 July 2021 and the parties have been provided an opportunity to comment on the implications of this for their case.
3. The appeal site has a planning history. This includes three previous outline planning applications each for a dwelling, the most recent of which was an outline planning permission approved by the Council (ref: 15/01994/O) with matters of access, layout, scale, appearance and landscaping all reserved for future consideration. The plans accompanying the application were specified to be 'indicative only'. As indicative plans these show how the site might be developed. To my mind, whilst consistency in decision making is important, the indicative plans do not advocate that the proposed location of the dwelling and the access have been found to be acceptable by reason of the previous grant of outline planning permission.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the surrounding area with particular regard to the effect on trees.

Reasons

Character and appearance

5. The appeal site is located a short distance along Hall Lane within a predominantly residential area. Hall Lane is generally characterised by two-storey detached dwellings albeit varied in terms of their style and treatment. Typically, properties are positioned within generous sized plots and are set back from the highway with well-stocked front gardens. Mature trees are

mainly confined to site boundaries and form an important part of the local landscape. Overall, Hall Lane has a pleasant, spacious and verdant character.

6. The appeal site forms part of the large garden to the side of The Old Rectory, a substantial detached three-storey dwelling occupying a corner plot at the junction of Hall Lane with Edward Benefer Way and Low Road. The Old Rectory is set within a generous plot which is larger than those within the vicinity. It contains a significant number of trees, the majority of which are subject to a preservation order¹. Many of these trees are mature, substantial in size and are prominent and attractive features in the streetscene, particularly those positioned along the front boundary adjacent to the highway. Consequently, these trees provide a sylvan setting and, overall, the appeal site makes a significant positive contribution to the character and appearance of the area.
7. The appeal scheme would involve the removal of a large number of trees, in the region of 28 out of a total of 39 trees, as specified within the appellant's Arboricultural Report (AR). This includes 26 trees which have been identified as either Category 'U' or 'C' trees. The AR suggests these trees are unsuitable for retention, either by reason of their condition such that they cannot realistically be retained for longer than 10 years, or, they are trees of low quality with an estimated remaining life expectancy of at least 10 years, or young trees with a stem diameter below 150mms. In addition, two trees for removal have been identified as category 'B'. These are considered to be trees of moderate quality with an estimated remaining life expectancy of at least 20 years. However, the appellant's Tree Decay Detection Report (TDDR) goes on to identify notable decay within one of the 'B' category trees with a very limited long-term prospect such that its removal is recommended.
8. In the interests of good landscape management and maintenance, I find no harm would be caused by the removal of the category U trees and, similarly, the Category 'B' – Eucalyptus, given the findings of the TDDR. Whilst I acknowledge that Category 'C' trees are not normally recommended for retention, I find that the cumulative impact of the removal of these trees together with the removal of the Category 'B' tree, a Yew tree on the boundary with Hall Lane would have a harmful impact on the character and appearance of the area despite the retention of a number of trees elsewhere within the appeal site, particularly in the absence of any mitigation. In reaching this view, whilst I acknowledge that the Council's tree officer did not offer an objection to their removal, I have taken account of the prominent position of these trees adjacent to the boundary with the highway and consider that the majority are in a condition and of an age to collectively make a significant contribution to the visual amenity of the area for a number of years to come.
9. Despite a scheme of mitigation being absent from the proposal, to my mind any replacement planting which could be secured through an appropriately worded condition, is unlikely to make a similar contribution to the character and appearance of the surrounding area particularly given that it would take a considerable amount of time to become established. Furthermore, given the siting of the proposed access and the position of the trees to be retained, this is likely to limit the opportunity for any new planting in such an area where they would provide a comparable contribution to the character and appearance of the surrounding area as those existing trees which are proposed for removal.

¹ Tree Preservation Order 1972, No.2

10. The introduction of a large two-storey dwelling and the resultant garden for the proposed dwelling and The Old Rectory would be comparable in size with other dwellings and gardens within the area. It would be well-spaced from The Old Rectory and properties along The Boltons. The proposed front elevation would broadly align with the build line of properties along Hall Lane. The proposed siting and plot size would be in-keeping with that of the surrounding development and as a result, it would not appear as an overly intensive form of development. In terms of its proposed siting, scale, form and materials, I find the appeal dwelling is well designed and it would relate appropriately to the established pattern, form and character of the surrounding context.
11. In conclusion, I find that, due to the loss of trees, the proposed development would be unduly harmful to the established character and appearance of the area. There would be conflict with Policy CS08 of the King's Lynn & West Norfolk Borough Council Core Strategy (2011)(CS), Policy DM15 of the King's Lynn & West Norfolk Site Allocations and Development Management Policies Plan (2016)(SADMPP) and Policies E.1 and H2 of the South Wootton Neighbourhood Plan (2015)(NP). Among other things, these policies require high quality development that is sensitively designed to take account of village character and local distinctiveness.
12. In addition, there would be conflict with the Framework insofar as it recognises at Paragraph 131 that trees make an important contribution to the character and quality of urban environments.
13. The Council's first reason for refusal also cites a conflict with Policy H3 of the NP. However, given my findings above, in relation to the proposed siting, scale and design of the appeal dwelling, I therefore find no conflict with this policy.

Other Matters

14. My attention has been drawn to a number of similar schemes. However, these are provided in support of the appellant's case relating to the overdevelopment of the plot, which I have not found to be harmful in this instance. It has therefore not been necessary for me to give consideration to these schemes. Additionally, there is little information relating to the particular circumstances of these developments and whether the circumstances are therefore comparable to the appeal proposal. As such, a comparison to these schemes is of little relevance in this instance and I have considered the appeal before me on its individual planning merits.
15. Reference is made to the sifting process undertaken by the Council. However, this is not a matter for me to determine as part of this appeal.
16. It has been put to me by the appellant that the Council have incorrectly applied Policy E.1 of the NP by reason of the appeal site being located outside of the growth site boundary. However, this is not a view I share. Whilst the extract of the proposals map shows the appeal site positioned outside of the growth site boundary, this policy also makes specific reference to the quality of existing residential areas amongst mature trees. To my mind, taking account of the wording of the policy together with the supporting text, I find Policy E.1 is relevant to the determination of this appeal.
17. The appeal scheme would contribute an additional dwelling to housing supply. Future occupants would contribute to the vitality and vibrancy of the local area

and economy. However, any benefits arising as a result of the appeal scheme would be very modest.

Conclusion

18. I have found there would be no conflict with regards to NP Policy H3 with regards to the proposed siting, scale and design of the appeal dwelling. However, there would be conflict with Policy CS08 of the CS, Policy DM15 of the SADMPP and Policies E.1 and H2 of the NP. As a result of the scheme's adverse impact on the character and appearance of the area. This is a matter that weighs significantly against the proposal. As such, the appeal scheme is contrary to the development plan and in this instance the material considerations weighing in favour of the appeal scheme are of insufficient weight to justify the development proposed. Accordingly, for the reasons given above I conclude that the appeal is dismissed.

E Brownless

INSPECTOR