Tree Preservation Order No 4 of 2015

Land at:
Sandalwood
5 Deanway
Chalfont St Giles
HP8 4JH

Signed this 24th of August 2015

Joanna Swift
Head of Legal and Democratic Services
(Proper Officer)

CHILTERN DISTRICT COUNCIL

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FW: FOR THE ATTENTION OF KEITH MUSGRAVE

From: Bainbridge Bainbridge
Sent: 29 September 2015 10:27
To: CDC Planning
Subject: FOR THE ATTENTION OF KEITH MUSGRAVE

Sandalwood
5 Deanway
Chalfont St Giles
HP8 4JH

APPEAL AGAINST TPO

29th September 2015

Mr Keith Musgrave
Tree and Landscape officer
Chiltern District Council
King George V House
King George V Road
Amersham
Buckinghamshire
HP6 5AW

Dear Mr Musgrave

SANDALWOOD, 5 DEANSWAY, CHALFONT ST GILES, HP8 4JH

Your Reference : KDM/TPO/2015/004

Further to the Tree Preservation Order made on the 24th August 2015 we would ask the Chiltern District Council to reconsider their decision.

Whilst we would ordinarily never support the removal of any tree it was unfortunate that we had to make a planning application to remove or reduce the number of trees in the garden. Not something we wanted to do. We do intend to replace or plant other flowers/trees in the future.

With regard to the Tree marked T1 on the TPO unfortunately we do not believe that the tree is an attractive addition or lends any beauty to the skyline. The neighbours have raised their concerns regarding the overshadowing that the tree causes and there is also the damage to the roof of Mrs Kwynter’s garage which we understand could increase over time. Given the proximity of the tree to the base of Mrs Kwynter’s garage this may also cause problems with the foundations in the future which could result in some formal action being brought against us. If this were to happen it would not only cause extreme financial hardship for us there could be a potential liability for Chiltern District Council in the future. We hope you will take our concerns and comments into considering when reviewing your decision.

We look forward to hearing from you.

Yours sincerely
Mr & Mrs J Bainbridge
Dear Keith Musgrave
I would never support cutting down the tree (application CH/2015/1337/KA), however if the TPO is to be made permanent it should not prevent reasonable lopping and pruning because it does have a harmful impact on adjacent garage when it raises the roof also reduction of it’s height would mean significantly improved sunlight to our gardens without taking away from it’s amenity value as a prominent skyline feature. Therefore as pointed out in the above I would like you to consider giving permission to decrease it’s height by few feet.
Kind regards,

Jacqueline Kwintner

Stonewells Barn, Bowstridge Lane, Chalfont St.Giles, HP84QJ
Application CH/2015/1337/KA

Heidi Johnson-Cash

Sent: 01 September 2015 09:39
To: CDC Planning
Cc: Jacqui Kwintner

Dear Mr Musgrove

I write further to your TPO correspondence received late last week. I reside at Stonewells Cottage, 3 Deanway, Chalfont St Giles and my parking area is situated at the back of the Stonewells trio of properties. This parking area is directly affected by the tree in question. I agree wholeheartedly that this tree should be protected and that its a prominent skyline feature although believe regular maintenance of it is a common sense approach to not only ensure the continued health of the tree but to also ensure the properties in its vicinity are not unduly affected by its neglect. Therefore I would fully support decreasing its height somewhat together with professional and regular pruning.

Kind Regards,
Heidi

Heidi Johnson-Cash
Stonewells Cottage
3 Deanway
Chalfont St Giles
Bucks
HP8 4JH

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Dear Keith Musgrave,

I have received your letter about the Town and Country Planning Act of 1990 and wanted to email saying we agree with the terms.

Our next door neighbour of 5 Deanway, Chalfont St Giles HP8 4JH got permission to cut one tree down just behind the back of the house but we also wanted to let you know he has cut 3 more down in the middle of his garden.

You can call me on

Thanks,
Jason

Spoke 0710913
Recent 14th Feb bell's or new roof
- TPO on SE - allowed the work

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'Help us to safeguard the environment - Only print this email if absolutely necessary.'
Mr Keith Musgrave  
Tree and Landscape Officer  
The Chiltern District Council  
King George V House  
King George V Road,  
Amersham,  
Bucks  
HP6 5AW

Dear Sir

**Town and Country Planning Act 1990**  
**Town and Country Planning (Tree Preservation) (England) Regulations 2012**  
**The Chiltern District Council – Land and Sandalwood, 5 Deanway, Chalfont St Giles, HP8 4JH**  
**Tree Preservation Order 2015-09-22 No 4 of 2015**

I am writing with regard to the Fir tree in the garden of Sandalwood, no 5 Deanway, Chalfont St Giles, HP8 4JH and to **add my support** to the council's decision **not** to allow the tree to be cut down.

The tree in question is, in my opinion, a beautiful healthy tree and the contribution it makes to the character of the area immense. One of the reasons I moved to my house is because of the surroundings and view from my windows. I would be very sorry to see this tree destroyed as if it were nothing.

The position of the tree, at the farthest end of the garden is ideally out of the way of the houses, so the roots aren't a problem and far enough away not to cause too much shading to No 5 or the neighboring homes.

I want to add my thanks also, in my opinion; you have made the right decision to preserve this tree.

Yours faithfully,

Simon Jackson

CHILTERN & SOUTH BUCKS DISTRICT COUNCILS

- 5 Oct 2015

POST ROOM RECEIVED
Appeal Decision

Site visit made on 17 November 2014

by Brian Dodd BA MPhil MRTPi

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

Decision date: 16 December 2014

Appeal Ref: APP/X0415/A/14/2224951
3-5 Station Road, Amersham, Bucks HP7 0BQ

- 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 Clive Woodley against the decision of Chiltern District Council.
- The application (Ref CH/2014/0399/FA), dated 21 February 2014, was refused by notice dated 30 April 2014.
- The development proposed is: extension to front of existing first floor flat; extension to rear of existing first floor flat to form new dwelling; change of use of retail showroom to form two new dwellings; ancillary works including provision of bin and bike stores.

Decision

1. The appeal is dismissed.

Preliminary matter

2. The appellant has sought to overcome the Council’s reasons for refusal by submitting revised plans with the appeal. The Council say that the revised plans should not be taken into account as they have not been subject to their normal publicity procedures. The revised plans set out alternative parking and turning arrangements (on Drawing 2013/76/03D). The Local Highway Authority and the Council have considered and submitted comments on the revised parking and turning arrangements. Those particular changes do not appear to raise any significant new issues which might affect any other interested party, and I will consider them alongside the original plans submitted with the planning application.

3. The only other revision of significance appears to be the proposed insertion of a new door in the side of the retail showroom, close to the flank of No 5, intended to facilitate loading and unloading (shown on Drawing 2013/76/02B). As the Council say, that proposal might have significant implications, because of additional noise and disturbance, for the amenity of the occupiers of No 5, who have not been consulted upon it. For that reason I will not take it into account in reaching my decision.

Main issues

4. I consider the main issues to be (a) the effect of the proposed parking and turning arrangements upon highway safety and the amenity of the future occupiers of the proposed dwellings; (b) whether appropriate arrangements have been made for the provision of affordable housing.
Reasons

5. Policies GC1, GC3, H3, and H12 of the Chiltern District Local Plan and Policy CS20 of the Core Strategy for Chiltern District require a high standard of design which respects the character of the area and protects the amenity of future occupiers.

6. Policies TR2 and TR3 of the Chiltern District Local Plan and Policies CS4, CS25 and CS26 of the Core Strategy for Chiltern District seek to ensure that development has satisfactory access and layout which do not adversely affect the transport network and which provide appropriate and effective vehicle and cycle parking and servicing arrangements. Parking standards and suggested layouts are set out under Policy TR16 of the Local Plan.

7. These policies accord with the principles of the National Planning Policy Framework, which I have taken fully into account.

8. The appeal site is at present occupied by a house (No 5), a retail showroom with a flat above (No 3) and some ancillary buildings, one of which would be converted to a bin store. The proposed conversions and alterations would result in a net increase of three small dwellings.

9. The appeal site lies in a sustainable location on the edge of the built-up area of Amersham, where residential development is acceptable in principle. There is no objection to the design of the dwellings themselves. The Council's reasons for refusal say that the proposal would not provide sufficient outdoor amenity space, but in their appeal statement they say that the level of amenity space, whilst limited, would be proportionate to the size of the small residential units, a conclusion with which I concur.

10. The appellant and the Council disagree about the character of the surrounding area, and in particular they differ over the quantity and layout of the parking spaces typical of the area. I saw a wide variety of uses, building styles and parking layouts in the locality, and in my opinion the proposed development would not be out of character with its surroundings so long as it could provide appropriate parking and turning arrangements, to ensure safety on the highway and a sufficient level of amenity for the future occupiers.

11. Policy CS4 of the Core Strategy seeks, amongst other things, to make maximum use of previously developed land. The Council favour complete redevelopment of the appeal site, which they say would produce a more satisfactory scheme. Regardless of whether such redevelopment would be more or less sustainable than what is now proposed, I see no cogent objection in principle to a scheme of alteration and conversion which would provide additional housing within the built-up area, provided that a suitable layout could be achieved.

12. The case turns, therefore, largely upon on the layout of the parking and turning arrangements and their impact upon highway safety and the amenity of future occupiers.

Parking and turning arrangements

13. The appellant says that the reduced size of the retail premises, and the removal of an ancillary building operation to another site, would reduce the
number and size of vehicles serving the premises. However, whilst that may be the intention of the present owners, a future occupier of the site might use it in a way which required larger vehicles and more frequent visits. Station Road is a busy thoroughfare subject to parking restrictions, and a bus stop and a pedestrian crossing stand close to the exit from the site. It is therefore prudent and good planning to ensure that larger vehicles could turn safely within the site and exit in forward gear.

14. The original plan (Drawing No 2013/76/03C) shows six car parking spaces at the front of the site, one space beside the proposed bin store, and six spaces at the rear. A turning head is shown at the rear of the site, opposite the two ground floor apartments. That turning head would be required to serve both residents’ and other vehicles, some of which might be large and noisy. So close to the apartments, they would cause a level of disturbance which would in my opinion be harmful to the amenity of the future occupiers, contrary to development plan policy.

15. In response to the Council’s concerns, the appellant has produced a revised plan (Drawing 2013/76/03D) showing an alternative layout. There would now be eight parking spaces at the front of the site, one at the side, and five at the rear. There would be a turning head at the front of the site, to accommodate vehicles serving the retail premises, and another at the rear, to serve the residents. In principle the inclusion of two turning heads would provide a satisfactory solution. However, the Local Highway Authority say that the front turning head would not be adequate to cater for ten metre long delivery vehicles. In the absence of cogent technical evidence demonstrating typical swept paths it is not possible for me to say whether or not the Local Highway Authority are correct. However, even if the proposed layout at the front of the site is adequate, that at the rear is certainly not. This is because the parking spaces have been relocated, leaving less than five metres in front of them for vehicles to manoeuvre when entering and leaving them. This would be plainly inadequate for anything other than the smallest vehicles, and might well result in vehicles being parked in the turning head, rendering it unusable for its intended purpose, or elsewhere on the site, reducing the total parking capacity and thereby compromising highway safety. The Council’s current standards require a manoeuvring space of six metres, and they are in the process of revising even that figure upwards to take account of modern vehicle dimensions. At least two of the parking spaces shown at the front of the site on the revised plan would also have manoeuvring space below the current standard.

16. For these reasons I conclude that the parking layout shown on Drawing No 2013/76/03D would not provide adequate useable space for residents’ vehicles, thereby compromising highway safety, contrary to development plan policy.

The provision of affordable housing

17. Policy CS8 of the Core Strategy and the Affordable Housing Supplementary Planning Document require that for development involving a net increase of up to four dwellings, as in this case, a financial contribution towards the provision of off-site affordable housing must be provided and secured by a legal agreement. The appellant does not dispute that such a contribution is required, but believes that it could be secured by means of a condition.
18. However, national Planning Practice Guidance (PPG) makes it clear that planning permission should not be granted subject to a positively worded condition that requires the applicant to enter into a planning obligation or an agreement under other powers. Such a condition is unlikely to pass the test of enforceability. The PPG says that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. In exceptional circumstances such a condition might be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk. The appeal proposal is clearly not in that category.

19. There is no legal obligation before me, and I therefore conclude on the second issue that the proposal, as it stands, does not make appropriate provision for off-site affordable housing, contrary to development plan policy.

20. I have taken into account all other matters raised, but for all the reasons given above I conclude that the appeal should be dismissed.

Brian Dodd

INSPECTOR