

A01

F/TH/18/1744

PROPOSAL: Part retrospective excavation of land and installation of retaining bank

LOCATION: Land Adjacent To 16 Station Road Westgate On Sea Kent CT8 8RT

WARD: Westgate-on-Sea

AGENT: Neil Batterbee

APPLICANT: Mr B Carter

RECOMMENDATION: Approve

Subject to the following conditions:

1 Within three months of the decision date, the proposed retaining bank, as shown on drawing numbered 01 and entitled 'Proposed Remedial Works to Land Excavation', the Structural Engineers Section drawing numbered P495/1 received 20 December 2018 and as detailed within the Structural Engineers Report Entitled 'P495 - Westgate. Site adjacent to 16 Station Road' received 18 April 2019 shall be installed and fully completed, and thereafter maintained.

GROUND:

To secure the stability of the site and the adjoining land and structures in accordance with paragraph 170 and 179 of the National Planning Policy Framework.

SITE, LOCATION AND DESCRIPTION

The site is located in a predominantly residential area, characterised by predominantly two storey semi-detached and terraced dwellings of varying ages, styles and designs.

Land Adjacent 16 Station Road is a vacant parcel of land containing trees to the front and rear boundary and is currently covered in vegetation. The site backs on to the railway to the rear (south) and is sited adjacent to a row of semi-detached residential dwellings to the east and 18-20 Station Road to the west which comprises commercial and community buildings and land.

The land level falls from east to west, with the site positioned at a lower ground level than the adjacent residential property, 16 Station Road to the east, and at a higher ground level than the commercial/community development to the west.

RELEVANT PLANNING HISTORY

None.

PROPOSED DEVELOPMENT

The application is for the part retrospective excavation of land and the installation of a retaining bank.

The land levels of the site were previously stepped with a raised ground level extending 3m from the eastern boundary, which stepped down with an abrupt cut face by approximately 1.5m to the remaining lower ground level.

The excavation works that have been carried out have reduced the raised ground level to approximately 1.5m from the eastern boundary, which steps down by approximately 1.8m-2m to the remaining lower ground level.

The proposed development seeks to gain planning permission for part of the existing excavation works, and proposes the installation of a 35 degree retaining bank to alter the excavation from an abrupt cut face to a sloping gradient.

DEVELOPMENT PLAN POLICIES

Thanet Local Plan 2006 (Saved Policies)

D1 - Design Principles

NOTIFICATIONS

Letters were sent to neighbouring property occupiers and a site notice was posted near the site. Three letters of objection have been received. The letters raise the following concerns:

- The excavation works should never have taken place before planning permission was applied for.
- No geotechnical survey present.
- Legally no-one should have undertaken excavations which have the potential to affect a neighbouring property.
- The excavation has encroached on the root protection zone potentially destabilising the trees.
- The application has fallen foul of certain requirements for party wall agreements due to the proximity of the excavation.
- The loss of trees will result in a significant loss for air quality in Thanet.
- The excavations could result in subsidence to the adjacent neighbouring property and garden.
- It is stated in the application that houses 2-16 Station Road are built with normal foundations of about 2ft. However, as the land was old railway coal yard these houses were built on floating rafts to avoid damage vibrations from the railway and the foundations are deeper than normal. Do not consider that a reinforcing structure along the side of the site will not stop any landslip of the land at the back of the site by the railway line.
- The excavations have adversely affected property prices.

Westgate Town Council - TDC need to be vigilant in their scrutiny of the application, the Holt and Wotten report does, obviously not include the condition of the exposed roots and any possible future damage to vital role trees play in cleaning the living spaces of those who inhabit high pollution environments such as railway lines adjacent to stations.

CONSULTATIONS

TDC Building Control Officer - 'I have reviewed the structural report for the application and conclude that the engineers report is satisfactory. Holt and Wotten are a long established competent firm of engineers and fully indemnified.'

TDC Arboricultural Consultant - 'I visited the site on 30th May 2019. Recent clearance and excavations appear to have affected the roots of a number of Sycamore trees:
- Along the rear boundary there's a single stem tree at the eastern end, a multi-stem tree in the middle and what appears to be a twin- or triple-stem tree at the western end,
- Adjacent to the entrance a further group of three Sycamores.

I understand there is no confirmed date for when the recent site excavations took place but, looking at Google StreetView photo's, they took place between July 2017 and August 2018. A comparison between the two sets of StreetView photos provides no information on the extent of excavation adjacent to the trees along the rear boundary, but shows there was already quite a steep bank close to the most exposed tree on the front boundary.

Further comparison appears to show some decline in the condition of the trees on site between the two dates, although the effect of the notably hot & dry summer of 2018 may be a contributing factor. However, looking at the August 2018 photos, the trees at the rear of the site appear to have poorer canopy cover after the excavations than those immediately west along the railway boundary.

With regard to the tree along the rear boundary, there is evidence that surface roots growing in a thin band of clinker above chalk have been severed. The report from structural engineers Holt & Wootton suggests the chalk is a fill material, so roots may be exploiting gaps and fissures to grow more deeply but this is difficult to confirm visually. The stem of the tree at the eastern end is very close to the edge of the bank in quite a precarious location, but the canopy condition appears reasonable. The shoot extension growth of the multi-stemmed Sycamore in the middle, despite what appears visually to be the most extensive root severance, appears good for the time of year. The single stem Sycamore at the western end is showing decline (shoot dieback, relatively small leaves, thinning canopy density). The medium to long-term future of the trees at either end is questionable. The tree in the middle appears to be growing well but its suitability for long term retention may require ivy and undergrowth to be stripped back to allow an assessment of its multi-stem structure.

With regard to the group at the entrance to the site, Google's 2017 photos show a steep bank down adjacent to the most exposed tree, so the recent works may not have been as extensive as initial impressions suggest. However, the tree is in poor condition with small, yellowing leaves, a sparse canopy and extensive ivy throughout. It is most unlikely to have any medium or long-term future. There is some evidence of root cutting around the mature Sycamore behind, and it also is showing signs of canopy decline and extensive ivy. The third

tree is further from the excavations and therefore less likely to have been affected, but also appears to have extensive ivy throughout.

If a retaining wall is built and backfilled with soil, there will be no immediate benefit to the adjacent trees. However, they may eventually exploit the additional rooting area and, in the medium term, it may help improve stability and canopy condition. Looking at the submitted plans, I am not entirely clear where a proposed retaining wall would be in relation to the trees, but the greater the distance from the trees the better.

The trees do provide a degree of public amenity and benefit. Those along the rear boundary are part of a line of trees along the railway boundary, and would provide valuable screening for any development that may be subsequently allowed on the site. The trees at the front are large and prominent in the street scene, partly because they are growing above street level. When we met on site the current owner seemed prepared to work with the Council and appeared to want to keep at least some of the trees but, in the short term, a Tree Preservation Order could be justified on amenity grounds and would provide a disincentive to further excavations or tree work on site (if such discouragement were considered necessary). It could also safeguard the area of land the trees currently occupy, should felling and replacement planting be considered appropriate to landscape a future development. A TPO could initially include all the trees, but the middle tree on the rear boundary and the tree furthest from the excavations at the front appear to be those with the greatest life expectancy. However, in the longer term, the trees stability and health have been prejudiced by the recent excavations and it is not possible to say with any degree of certainty how the trees will respond. Some are already showing signs of decline, but that could pre-date the recent works. Clearing around the base of the trees and stripping out ivy will allow for a more detailed inspection and assessment of the trees, and make it easier to monitor for any movement of stems and remaining root plate. The relationship to any future development, in respect of shading and fear of proximity, can only be assessed when the details are submitted.

However, given the work that has occurred and the potential time and work implications to the Council of fighting to retain root damaged trees, both at this stage and during the future occupancy of the site (a TPO generates an expectation that trees will be retained, particularly to those who may be opposed to development), on balance I feel a TPO may not be appropriate.

COMMENTS

This application is brought to Planning Committee, as it has been called in by Councillor Braidwood due to concerns regarding the structural stability of the excavation works and its impact to the trees on the site.

The main considerations with regard to this application are the impact of the proposed development on the character and appearance of the area, the impact upon neighbouring occupiers in relation to land stability and the impact upon trees.

Character and Appearance

The application site is a vacant site containing mature sycamores to the front and rear boundary and is currently covered in vegetation. The site is a relatively unique site within in context, surrounded by predominantly two storey residential development and a commercial/community building immediately adjacent to the west.

The site has been overgrown for a number of years. Whilst the part retrospective excavation works have altered the land level of the site, these works and the proposed retaining bank, which will create a sloping gradient between the raised and lower ground levels, are not considered to have significantly altered the appearance of the site within the wider area. As such, the proposed development is not considered to result in harm to the character and appearance of the area, in accordance with Policy D1 of the Thanet Local Plan and the National Planning Policy Framework.

Land Stability and Impact on Neighbouring Occupiers

The only impact to adjacent neighbours arising from this development is the impact upon land stability.

Paragraph 170 of the National Planning Policy Framework states that decisions should prevent new and existing development from contributing to, being put at unacceptable risk from, or be adversely affected by, unacceptable levels of land stability. Paragraph 179 states that where a site is affected by land stability issues responsibility for securing a safe development rests with the developer and/or landowner.

The proposed development seeks to stabilise the existing excavation works through providing a sloping 35 degree retaining bank filled with granular material placed against the face of the existing excavation with a 0.6m stable ground level to the eastern boundary. A Structural Engineers report and section plan has been submitted to accompany the application. This states that the proposed retaining bank to alter/support the excavation would represent little risk to the foundations and structural stability of the adjacent residential property 16 Station Road. This conclusion is supported by Thanet Council Building Control.

A condition requiring the proposed retaining bank to be carried out and fully completed within 3 months of the decision date has been agreed with the agent, and will be attached to the consent in the event the application is granted. As such, the proposed development is not considered to result in unacceptable risk to the adjacent neighbouring property in relation to land stability and is therefore considered to be in accordance with the National Planning Policy Framework.

Impact to Trees

The application site contains several mature sycamores which are highly visible within the surrounding public realm and provide amenity value. These trees are not protected by way of a Tree Preservation Order, nor does the site lie within a Conservation Area. There is a group of 3No. Sycamores adjacent to the front boundary of the site, and 3No. Sycamores

adjacent to the rear boundary including a single stem tree to the east, a multi-stemmed tree to the centre and a twin or triple stem tree to the west.

The excavation works which have been carried out have exposed roots of the trees adjacent to the rear boundary and there is evidence that some of their roots have been severed. The canopy condition of these trees appear to be reasonable, with the exception of the western tree which appears to be showing decline. The Arboricultural Consultant has stated that the medium to long term future of the trees at either end is questionable, however the central tree appears to be growing well subject to further assessment following the removal of the ivy.

The group of trees to the entrance of the site were previously sited against a steep bank and therefore the excavation works to these trees are likely to have resulted in lesser impact than the trees to the rear. The two closest trees to the bank are considered to be in poor condition with canopy decline and extensive ivy. Whilst the tree furthest from the excavations is less likely to have been affected, this tree also contains extensive ivy throughout.

The retrospective excavation works appear to have resulted in some harm to the stability and health of the trees, however the degree of impact varies depending on the position of the trees in relation to the excavation and their original condition. It is not possible at this point to decisively state the full impact of the works and how the trees will respond in the future. The trees provide positive amenity value within the wider public realm, particularly the trees to the front of the site by virtue of their prominent position, with the trees to the rear forming part of the line of trees adjacent to the railway boundary. However, given the existing condition of the trees, with the trees to the front boundary appearing to be in poor condition, and the trees to the east and west of the rear boundary which appear to be showing decline, together with the impact to the trees following the excavation works, it is not considered, on balance, that a Tree Preservation Order would be appropriate in this instance.

The vegetative and landscaped character of this site is considered to be important to the character and appearance of the area, and should trees be removed, replacement landscaping and tree coverage, particularly to the rear boundary will be sought as part of any future application for development of this site.

Other Matters

Legal concerns and party wall agreements are legal matters which are separate from the planning process.

The impact of a development upon property prices is not a material planning consideration in the determination of planning applications.

CONCLUSION

The proposed development is considered to be acceptable in terms of the character and appearance of the area, and is not considered to result in unacceptable risk to the adjacent neighbouring property in relation to land stability. The excavation works have resulted in a degree of harm to the trees, however given their existing condition and the impact of the

excavations, these trees are not considered to warrant protection through a TPO. The proposed development will therefore accord with Policy D1 of the Thanet Local Plan and the NPPF. It is therefore recommended that Members approve the application, subject to safeguarding conditions.

Case Officer

Jenny Suttle

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