

Appeal Decisions

Site visit made on 13 September 2016

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 21st September 2016

Appeal Ref: APP/L2630/W/16/3153662

Woodleigh, 5 Merlewood, Dickleburgh, Diss, Norfolk IP21 4PL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Mary Roe against the decision of South Norfolk District Council.
 - The application Ref 2015/2847, dated 9 December 2015, was refused by notice dated 3 February 2016.
 - The development proposed is a single storey 1-2 bedroom dwelling on land east of 5 Merlewood.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was originally submitted in 'outline' with all matters reserved. Nevertheless, a site layout plan has been submitted indicating the position and size of the proposed dwelling. Having read the submissions of the appellant it is clear that the site layout plan shows a reasonably firm proposal with the dwelling to be single storey in scale and sited towards the back of the site. The details also show the probable location of the access. I have dealt with the appeal on the basis that the appellant's submission show a reasonably firm proposal and therefore matters of 'scale', 'layout' and 'access' are before me.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area, with particular reference to trees.

Reasons

4. The appeal site fronts onto Rectory Road and is currently part of the garden of 5 Merlewood. It is located towards the eastern extent of the village and is dominated by a number of mature trees which are protected through a Tree Preservation Order (TPO). Merlewood is a small cul-de-sac on the edge of the village with open farmland to the east. When approaching the village from the east the TPO trees are highly prominent forming a cohesive and attractive group which enhance the character and appearance of the area.
 5. The appeal scheme is to erect a single dwelling within the appeal site. The appellant has indicated that due to the Root Protection Areas (RPA) and canopy spread of the trees within the site, the dwelling would be located towards the
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southern rear boundary and kept to a single storey. The Council are concerned that the construction of the proposed dwelling would directly harm the retained trees and then subsequent occupation would result in circumstances where inappropriate future management/felling would be sought by future residents.

6. The Council have suggested that the RPAs shown on the submitted drawings have not been adjusted to take into consideration the presence of Rectory Road, as the roots could have grown further into the site than shown on the drawings. Since the Council issued its decision the appellant has commissioned a root investigation. This investigation found some tree roots in the position of the proposed dwelling but they tended to be small and could be managed through pre-emptive root pruning. Larger roots from the Sycamore tree were identified but pre-emptive root pruning to a position no closer than 5.5m from the stem of the tree would ensure the impact would be low. The Council have not raised any concerns with the investigation and therefore I am satisfied that the construction of the house is unlikely to harm the RPAs of the trees subject to the measures set out by the appellant's arboricultural advisors.
7. The Council have also raised concerns regarding the position of necessary service runs to the proposed dwelling. Nevertheless, the appellant has consulted with UK Power Networks and Anglia Water and both utilities providers have indicated that there are options available to run services to the proposed bungalow without encroachment into the RPAs. Likewise, the Council's Building Control Officer has confirmed that a soakaway could be located outside of the RPAs towards the east of the site. Additionally, the driveway could be provided through a 'no dig' construction method. The Council have provided no substantive evidence that leads me to question the validity of these points. Nor have they directed me to those parts of BS:5837¹ it considers the proposal would contravene. As a consequence, I am satisfied that the physical provision of services, and a vehicle access, could be achieved without harm to the health and longevity of the protected trees.
8. However, whilst I am broadly satisfied the dwelling could be constructed without harm to the protected trees, I am not persuaded that it could be occupied without there being significant pressure to inappropriately manage or fell them. I share the view of the Council that the trees would tower above the bungalow due to its proposed siting close to the trunks of the trees. This would result in an oppressive and overbearing impact on future occupants. The proposed proximity of the bungalow to the trees would also result in a heightened sense of apprehension that the trees could damage the property. Future occupants would also have the added burden and cost of having to undertake regular and essential tree management.
9. Moreover, whilst the dwelling would have an unobstructed southerly aspect which the appellant considers would place the dwelling outside the shade pattern of the protected trees, the garden of the property would be shaded and oppressed by the trees to an unacceptable extent, even with the tree management proposed. There would also be other undesirable impacts from leaf litter, branch shedding and other deposits which would fall on the house, garden and parked vehicles. As a result, the living conditions of future occupants of the bungalow would be unacceptable.

¹ BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations

10. Even though future occupants would be aware that the trees were protected by a TPO, in my view it would still be highly probable that the combination of factors I have identified would place the Council under sustained pressure to permit undesirable works to the trees or even felling. There would be harmful to the character and appearance of the area if this was to occur. If the Council were to exercise its powers and not permit such works to the trees then the living conditions of future occupants of the appeal scheme would be compromised. As such, and in either eventuality, the appeal scheme would have unacceptable impacts.
11. In reaching this view I note that some design measures could be employed to lessen the impacts of the protected trees on the living conditions of future occupants, such as non-slip paving and leaf guards. But these measures would not address the overall and inherent drawbacks associated with living in such close proximity to mature trees, such as excessive shading of the garden.
12. I therefore conclude that the occupation of the dwelling would threaten the long term viability of the trees to the detriment of the character and appearance of the area. As a consequence, the appeal scheme would be contrary to Policy 2 of the Joint Core Strategy for Broadland, Norwich and South Norfolk (2011 amended 2014) and Policies DM 3.5 and DM 3.4 of the South Norfolk Local Plan 2015, which seek to maintain or enhance the character and appearance of the district.

Other Matters

13. The appellant has drawn my attention to three developments within the district where dwellings appear to have been permitted in close proximity to trees. The Council has not provided comments in relation to these examples. Nevertheless, the precise details behind the approval of these developments are not before me. Moreover, they appear to relate to single trees rather than a grouping. As such, the examples referred to do not appear to be directly comparable to the appeal scheme and do not alter my findings on the main issue. In any event, I have considered the appeal scheme on its own merits.
14. The proposal would incorporate additional planting and a scheme of management for the existing trees, which could have a positive impact on the character and appearance of the area. These are benefits of the scheme. But there is nothing to suggest the delivery of these benefits is reliant on a dwelling being approved and constructed at the site and therefore I afford them very limited weight. The proposal would provide a new dwelling in close proximity to local services. However, such a benefit could be accrued by a development in a more suitable location without the adverse impacts I have identified. As such, this is not a determinative matter and my conclusion on the main issue is therefore unaltered.

Conclusion

15. For the reasons given above, and having regard to all other matters raised, including the local support of the Parish Council, I conclude the appeal should be dismissed.

Graham Chamberlain
INSPECTOR