
Appeal Decision

Site visit made on 20 September 2016

by Emma Tinsley-Evans BSoc.Sc MA MRTPI

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

Decision date: 24 October 2016

Appeal Ref: APP/Y3940/W/16/3150776

2 Quarrydale Close, Calne, Wiltshire SN11 0BQ

- 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 Mr Simon Shelley against the decision of Wiltshire Council.
 - The application Ref 15/09602/OUT, dated 25 September 2015, was refused by notice dated 20 November 2015.
 - The development proposed is new residential dwelling in the grounds of the existing house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for outline planning permission with all detailed matters reserved. I have dealt with the appeal on that basis, treating drawing Nos 1760-04 PI and 1760-05 PI as indicative.

Main Issues

3. The main issues are the effect of the proposed development on:
 - Protected trees;
 - The living conditions of future occupants with regard to outside amenity space; and
 - The character and appearance of the site and the surrounding area.

Reasons

Protected trees

4. Whilst there are no protected trees on the appeal site, the land immediately adjacent to its western boundary at Elm Grove includes a number of trees which are protected by Tree Preservation Order (TPO) No 177. The appellant has questioned the accuracy of the TPO plan, given that it was drawn up in 1996 and a number of changes have since been made.
 5. The Council considers that the main trees affected by the proposal would predominantly be T3 Hornbeam, T8 Beech and T9 Hornbeam. However, I note from my site visit that the Hornbeam identified as T9 is no longer present and cannot therefore be impacted by the proposed development.
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6. Nevertheless, trees T8 and T3 are well established and fairly substantial in size. Both trees lie in close proximity to the boundary of the appeal site, although T8 is the closer of the two and leans distinctly towards the appeal site. Its canopy also currently extends into the appeal site with the leaves of its lower branches skimming the top of the existing garage.
7. At present there is a natural banking between the appeal site and the adjacent land at Elm Grove. The indicative layout of the proposed dwelling suggests that it would be closer to the boundary than the current garage. Indeed, given the shape and topography of the appeal site and its relationship to the existing dwelling at 2 Quarrydale Close, I consider that any dwelling would need to be located in close proximity to the boundary of the adjacent land.
8. Due to the topography of the area and the significant change in land levels between much of the appeal site and the land at Elm Grove, the development would be likely to require significant engineering works, excavation and the insertion of a retaining wall. It is therefore likely that substantial groundworks would be required very close to protected trees T8 and T3 to accommodate a dwelling at the appeal site.
9. I have had regard to comments from the Council's Tree Officer which highlight that the change in levels to accommodate the proposal would have a detrimental effect on the trees and that to avoid damage to tree roots, existing ground levels should be retained within the Root Protection Area (RPA). It is also stated that intrusion into soil within the RPA is not acceptable, and top soil within it should be retained in situ.
10. I have no substantive evidence before me to demonstrate that protected trees T8 and T3 would be unaffected by the proposed development. In view of their proximity to the appeal site and the works that would be required to accommodate a dwelling on the site, I consider it very likely that the development would cause damage to these protected trees.
11. I acknowledge that the appellant is seeking to ensure that the proposed dwelling is designed to accommodate the canopy spread of tree T8 which overhangs the appeal site. Whilst I also note that the canopy spread of tree T3 into the appeal site is not as extensive, it occupies a position close to the appeal site boundary. Given the extent of the canopy overhang of these adjacent trees, their likely natural development, and the limited flexibility on site to make adjustments to the exact location of the dwelling, I consider that there may be pressure to cut back the overhanging elements of the canopy to physically accommodate the development.
12. In the absence of any evidence to the contrary, I consider it likely that the proposed development would cause damage to protected trees. In accordance with Policy NE14 of the North Wiltshire Local Plan 2011 (LP), planning permission should not be granted for proposals that would be likely to result, or be likely to result, in the loss of trees and other features that could be successfully and appropriately incorporated into the design of a development.

Living conditions

13. In the event that it were possible to accommodate the proposed dwelling without cutting back the overhanging elements of the adjacent protected trees, it is the canopies of trees T3 and particularly T8 that currently extend into the

appeal site. The indicative layout proposes an L-shape design for the dwelling to accommodate the canopy of T8, with a courtyard / terrace area occupying the space beneath.

14. Whilst part of the terrace would be overshadowed by the tree canopy of T8, the majority of the rear garden would remain unaffected as there are so few trees located close to the boundary of the appeal site in this location. There are no protected trees within the appeal site itself and the rear garden would be largely open to the sky. Moreover, given the orientation of the site and the south-facing rear garden, I do not consider that the future occupants are likely to experience a substandard level of daylight to their principle outside space.
15. There would be less overshadowing from T3 as this is located slightly further away from the boundary. The impact of the canopy of T3 would also be limited to the front of the appeal site and it would not affect the more private amenity space at the rear of the proposed dwelling.
16. I do not therefore consider that the proposed development would result in an unduly cramped and overshadowed outside amenity space that would have a harmful effect on the living conditions of future occupants. I find no conflict with Core Policy 57 of the Wiltshire Core Strategy¹ (CS) which seeks to ensure, amongst other things, that appropriate levels of amenity are achievable within the development itself, including the consideration of overshadowing.
17. The proposal would accord with one of the core planning principles as outlined in the National Planning Policy Framework (the Framework), which is to seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

Character and appearance

18. The appeal site is located in a leafy residential area and comprises part of the curtilage of 2 Quarrydale Close, a detached 2 storey dwelling occupying an elevated corner position at the junction with Linden Close. Like the host property, the proposed dwelling would have a frontage with and be accessed off Linden Close.
19. Whilst the surrounding residential streets of Quarrydale Close and Elm Grove have a more planned appearance with properties of a similar style and design, and a more consistent and regular pattern of development, the proposed dwelling would be read in the context of Linden Close.
20. In contrast to these neighbouring streets, Linden Close has a more varied and mixed character and appearance. It comprises semi-detached bungalows, a 2 storey detached house, a cottage and 3 storey flats in a range of styles and finishes. There is not a consistent front building line, nor is there an obvious spacing or regularity to the built form. A number of properties in Linden Close are also elevated from the road due to the topography of the land.
21. The existing property at No 2 occupies a fairly sizable plot and has a wide frontage with Linden Close. The proposal would see the sub-division of the plot and the erection of a detached dwelling in the area currently occupied by the existing driveway and the large, pitched roof, detached double garage.

¹ Adopted January 2015

22. Whilst a dwelling would be larger than the existing garage, the appeal site already accommodates a degree of built development and hardstanding. Given the size of the overall site and the character of the surrounding development in Linden Close, I do not consider that the appeal proposal would amount to significant overdevelopment of the site.
23. Although the appeal proposal would reduce the existing property's frontage with Linden Close, the proposed sub-division of the plot would give both properties a similar sized frontage, whilst also allowing No 2 to retain its prominent corner position and aspect to Quarrydale Close. The proposed amenity space would be in the area comprising part of the current rear garden of the existing dwelling. Consequently, I do not consider that the erection of a dwelling of the type indicatively proposed would detract significantly from the character of the existing site.
24. Moreover, given the mix and variety of styles of properties along Linden Close and the lack of regularity to the built form, the appeal proposal would not be out of keeping with the existing pattern of development. Furthermore, as the appearance of the house would be a matter for future determination, I am satisfied that there is scope for an acceptable design to be submitted.
25. I acknowledge that the proposed parking area may require re-profiling works and the provision of retaining walls. However, I note from my site visit that whilst No 2 has mature landscaping along its side boundary with Quarrydale Close, it does not currently have an overtly verdant appearance along much of its frontage with Linden Close. The introduction of a parking area would not unduly harm the character of the site, particularly given that the mature trees and vegetation that are present along its boundary with Quarrydale Close would be likely to remain unaffected.
26. Consequently, the proposed development would not have a harmful effect on the character and appearance of the site or the surrounding area. I find no conflict with Core Policy 57 of the CS which seeks to ensure that development draws on local context, responds to the existing pattern of development and makes efficient use of land whilst taking account of the characteristics of the site, amongst other things.
27. As the appearance of the proposed dwelling is reserved for future determination and having regard to my overall conclusion on character and appearance, I find no conflict with paragraph 64 of the Framework which states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

Other Matters

28. I note the comments of a local resident regarding the impact of the proposed development on wildlife. However, the Council has stated that the site is not in an area of noted ecological significance and I have no evidence before me to suggest that the dwelling would have any adverse impacts on local wildlife.
29. With regard to the impact of the proposal on highway safety, the traffic generated by a single dwelling would not be significant and I have no reason to disagree with the Council's Highway Officer who has not objected to the proposed development.

30. I am mindful that the area of land adjacent to the western boundary of the appeal site is part of the private garden of 1 Elm Grove. However, it is some distance from the property, next to an access road and not therefore part of the most private part of the garden nearest the house. In addition, the appearance of the proposed dwelling would be a matter for future consideration and were I minded to allow the appeal, I consider that any issues of overlooking could be addressed at the detailed design stage.
31. Furthermore, whilst I also appreciate neighbouring concerns regarding land slippage, this is a private matter and cannot therefore be instrumental in my decision.

Conclusion

32. I have concluded that the proposed development would not have a harmful impact on the character and appearance of the existing site or the wider area, nor would it adversely affect the living conditions of future occupants with regard to outside amenity space. However, in the absence of any evidence to the contrary, I cannot be satisfied that there would be no harm to protected trees on the adjacent site.
33. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Emma Tinsley-Evans

INSPECTOR