

# Appeal Decision

Site visit made on 30 September 2016

**by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI**

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

**Decision date: 27 October 2016**

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**Appeal Ref: APP/B1225/W/16/3150880**

**Rivendell, High Street, Winfrith Newburgh, Dorchester DT2 8JN**

- 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 Dr Kevin Butter against the decision of Purbeck District Council.
  - The application, Ref. 6/2016/0087, dated 5 February 2016, was refused by notice dated 1 April 2016.
  - The development proposed is a single storey residential unit.
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## Decision

1. The appeal is allowed and planning permission is granted for a single storey residential unit at Rivendell, High Street, Winfrith Newburgh, Dorchester in accordance with the terms of the application, Ref. 6/2016/0087, dated 5 February 2016, subject to the conditions in the attached Schedule.

## Main Issue

2. The main issue is the effect of the proposed development on adjoining trees and whether, as a result of this effect, the character or appearance of the Winfrith Newburgh Conservation Area would be preserved or enhanced.

## Reasons

3. The Council's concerns relate to the effect on an Ash tree and a Tree of Heaven in the garden of The Hobbit, the adjoining dwelling to the north west. However, as regards the 'Tree of Heaven', at my site visit this seemed to me to be an incorrect identification and indeed I note that the appellant's tree adviser refers to it as a 'Manna Ash', which seems closer to the mark.
  4. The alternative scenario is that the Tree of Heaven is the tree referred to by the appellant's arboriculturalist as a Cherry tree. In any event, the Council has offered no detailed evidence as to any harm that would be directly caused to these trees as a result of the new building, and they also do not appear to be constrained by existing development, there being ample room for the growth of most of their canopies.
  5. The Ash tree (T1) is more relevant because it is already close to The Hobbit and its garage, as well as to the appellant's garage and potentially the proposed dwelling. In this context, a substantial part of the Council's objection is that the proposed development would hinder the room for tree roots as it grows from semi-maturity to maturity.
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6. However, I am minded to agree with the appellant's and his consultant's view that the Ash is in fact a mature specimen and I note that there is some anecdotal evidence to support this. This would mean that room for the tree's future growth is far less critical and I am not persuaded that a small single storey building currently outside the root protection area would be a long term hazard to the tree's health.
7. The parking area would be within the root protection area but conditions can be imposed to ensure that construction takes account of the need to avoid damage to the roots and of materials that allow them to continue to receive water and grow thereafter.
8. The Council is also concerned that the proximity of the tree will increase the pressure from the occupiers of the proposed dwelling for its felling or pruning. I am familiar with the argument that not all residents welcome nearby trees and in fact perceive them as more of a problem than an amenity. However, the fact that the tree is in the garden of The Hobbit rather than on the appeal site reduces the pressure for its actual removal, as there is no incentive for its owner to seek felling.
9. In terms of the pressure to prune the canopy above the proposed dwelling and its curtilage I consider that an Ash tree is a better neighbour in terms of the effect on light, debris and the nuisance of its leaf fall than many other species. There may be a requirement in the longer term for some judicious pruning, but I do not see this as being likely to significantly affect the appearance of the tree to the extent that would have any effect on the character and appearance of the conservation area. This would be even more the case with the other two trees (as mentioned, the species are unclear) because of their position in more open land away from the existing buildings and the proposed dwelling.
10. On balance, I do not consider that the Council has established its argument as to a negative effect of the proposed dwelling on trees and any consequential harm to the conservation area to a sufficient extent to warrant refusal of permission. This is especially so when the issue of conditions that can be imposed to mitigate potential harm is properly considered. I do not therefore conclude there would be a harmful conflict with Policies SD, D & LHH of the Purbeck Local Plan Part 1; the Purbeck Design Guide SPD and Section 11 of the National Planning Policy Framework 2012.
11. In allowing the appeal I shall impose conditions on the lines of those suggested by the Council. A condition requiring the development to be carried out in accordance with the approved plans will avoid uncertainty. Conditions ensuring that the construction of the dwelling is in accordance with the supporting arboricultural information and with details first approved by the Council will avoid harm to the trees and preserve visual amenity.
12. A surface water drainage condition will reduce the risk of flooding and an access, highway and turning condition will ensure that there is no prejudice to highway safety.

*Martin Andrews*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision;
- 2) The development shall be carried out in accordance with the following approved plans and documents: DRW01; DRW02; DRW03; DRW04; DRW05; Arboricultural Impact Assessment; Arboricultural Method Statement & Tree Protection Plan document reference AIAAMSTPP15BUTTERDT28JNREVISED. The external materials shall be as detailed in the application form;
- 3) All works impacting on the retained trees during the development must be carried out as specified in the approved Arboricultural Impact Assessment, Arboricultural Method Statement & Tree Protection Plan document reference AIAAMSTPP15BUTTERDT28JNREVISED;
- 4) Before any ground works for the construction of the parking area or works for the construction of the dwelling start on site, details of the groundworks for the parking area and construction works for the foundations of the dwelling shall be submitted to and approved in writing by the Local Planning Authority. All works shall be carried out in accordance with the approved details, unless any variation is first agreed in writing;
- 5) Prior to the commencement of any groundworks, a scheme for dealing with surface water drainage from the development shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of the on-going management and maintenance of the scheme. The appropriate design standard for the drainage system shall be the 1 in 100 year event plus an allowance for the predicted increase in rainfall due to climate change. Prior to the submission of these details, an assessment shall be carried out into the potential for disposing of surface water by means of a sustainable drainage system (SUDs) and the results of the assessment provided to the Council;
- 6) The approved drainage scheme shall be implemented before the first occupation of the building and thereafter maintained and managed in accordance with the agreed details;
- 7) The development permitted shall not be occupied until the access, parking and turning indicated on the submitted details have been constructed. Thereafter, these areas shall be maintained, kept free from obstruction and made available for the purposes specified.