
Appeal Decision

Site visit made on 10 October 2016

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 16 November 2016

Appeal Ref: APP/Q1255/W/16/3150017
48 Upper Road, Poole BH12 3EW

- 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 A Andrews against the decision of Poole Council.
 - The application Ref APP/15/01808/P, dated 21 December 2015, was refused by notice dated 12 February 2016.
 - The development proposed is sever land to front of plot and erect a pair of semi-detached bungalows.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr A Andrews against Poole Council. This application is the subject of a separate decision.

Procedural Matter

3. The application was submitted in outline with details of access, scale and layout for consideration at this stage. Appearance and landscaping are reserved for later approval. I have dealt with the appeal on that basis.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area, with particular reference to whether the development would preserve the amenity value of a protected oak tree.

Reasons

5. The character of Upper Road varies along its length, with the houses being tightly spaced and regimented at either end. The central section has a more spacious feel, with detached dwellings set well back on the north side of the road behind deep, well landscaped front gardens. No 48 Upper Road is one such property. It lies at the junction with Brixey Road and has a hedged boundary onto both streets, with a driveway leading off Upper Road. In the south-east corner of the plot is a large oak tree. This tree is a prominent feature within the local area and it has significant amenity value, recognised by the fact that it is protected by a Tree Preservation Order.
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6. The proposal is to sever a section of front garden for the construction of a pair of semi-detached chalet style bungalows. The site is set lower than Brixey Road and from that street the dwellings would be largely screened by hedging. The development would be more visible from Upper Road. From here it would noticeably disrupt the established grain of detached dwellings set back from the road within generous plots. Tandem development is not a defining characteristic of Upper Road and its introduction would be both incongruous and harmful.
7. The siting of the bungalows within the plot has been heavily influenced by the need to avoid the root systems of the protected oak tree. This has resulted in a layout in which the principal elevations would be facing sideways onto a narrow driveway leading to No 48 at the rear. This arrangement would be at odds with the prevailing pattern of detached dwellings facing the road and in my judgement it would appear unduly cramped.
8. The Council is concerned that the protected oak tree would overshadow the proposed bungalows and their gardens. There is no daylight and sunlight assessment provided with the application. However, given the size of the tree and its position in relation to the path of the sun it is highly probable that the levels of sunlight to the rear gardens of both properties would be compromised. Windows in the rear of the bungalows would also be adversely affected. Given the layout of the site these are likely to be reception rooms opening onto the garden – as confirmed by the submitted plans.
9. I appreciate that sunlight would still reach parts of the garden at certain times of year – this is evidenced by photographs submitted with the appeal. Some occupiers may also enjoy the shade. Furthermore, natural lighting within the dwelling could be enhanced using sun-tubes and roof lights. Nonetheless, I consider that there is considerable risk that the development would lead to pressure to fell or significantly prune the tree. That possibility would increase as the tree grows larger. Overall, I consider that the proposal would pose an unacceptable threat to the future of the tree and the amenity value which it affords.
10. The submitted layout plan shows the proposed building to be outside of the root protection area (RPA) for the tree. This is expressed as a theoretical circle. It is put to me that the RPA fails to take account of the impact of the adjacent road on the growth of roots. However, this has been taken into account by the appellant's arboricultural consultant who has assigned additional fibrous rooting area to the north of the tree. The Council does not provide any technical evidence of its own to explain why it considers this approach to be incorrect. On this basis there are no grounds for me to find that the proposed building would have a direct impact on the health of the tree.
11. Policy PCS5 of the Poole Core Strategy (2009) states that residential proposals involving plot severance will only be permitted where sufficient land can be assembled to accommodate a type, scale, density and layout of development which preserves or enhances the area's residential character. Policy PCS23 requires proposals to exhibit a high standard of design which complements or enhance Poole's character and local identity. Policy DM1 of the Poole Site Specific Allocations and Development Management Policies Development Plan Document (2012) states, amongst other things, that schemes which result in

the loss of protected or unprotected trees that make a significant contribution to the character of the area will be resisted.

12. In failing to have regard to the prevailing pattern of surrounding development, the appeal scheme would cause material harm to the character and appearance of the area. There would also be an unacceptable threat to the amenity value of the protected oak tree. For these reasons the proposal would be contrary to the aforementioned development plan policies. I have considered all other matters raised but have found no other material considerations of sufficient weight to outweigh this conflict.

Other Matters

13. The appellant has referred me to various planning permissions granted by the Council where the individual plot sizes are smaller than that being proposed. Although I have not been given full details of these cases, I was shown a representative sample of completed developments during my visit. It was apparent that most were 'backland' development behind the street frontage. The appeal proposal is not directly comparable in that it involves the severance of a front garden in a more spacious and less densely built-up context. I have therefore considered the case on its own merits, as I am required to do.
14. I have seen a copy of a signed S106 Unilateral Undertaking which would secure a financial contribution towards Strategic Access Management and Monitoring in connection with the Dorset Heaths protected European sites. However, the Undertaking would not address my fundamental concerns about the scheme and thus it has not had a bearing on my decision.

Conclusion

15. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR