

Appeal Decision

Site visit made on 13 December 2016

by Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 28 December 2016

Appeal Ref: APP/J3720/W/16/3158160

The Old Carpenters Shop, Kineton Road, Oxhill, Warwick, Warwickshire CV35 0NZ

- 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 Mr John Tongue against the decision of Stratford on Avon District Council.
 - The application Ref 16/00574/FUL, dated 11 February 2016, was refused by notice dated 13 April 2016.
 - The development proposed is alterations and conversion of redundant carpenters shop to provide residential accommodation.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. Following refusal of the planning application, the Council adopted the Stratford-on-Avon District Core Strategy 2011 to 2031 (CS) on 11 July 2016. The policies contained therein have replaced those within the Stratford-on-Avon Local Plan Review (2006), which are referred to in the Council's reasons for refusal. This is explained in the Council's statement of case and therefore the appellant has had opportunity to comment on the changes to the development plan. No party has therefore been prejudiced.

Main Issues

3. The main issues are:
 - whether the proposed development would provide acceptable living conditions for future occupants, with particular regard to the provision of outdoor living space;
 - the effect of the development on the Norway spruce trees and any associated effect on the character and appearance of the area and biodiversity; and
 - the effect of the proposed car parking arrangements on highway safety in Kineton Road.
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Reasons

Living conditions

4. The constraints of the site are such that the private amenity space provision would be limited to a narrow triangular strip situated between the northern side of the building and the boundary to the adjacent property.
5. The enjoyment of this space would be compromised not only by its size and shape but also by the sense of confinement created by the building itself, the boundary fence and the hedge at the rear. Although at the time of my site visit a table with two chairs was positioned at the widest part of the amenity space, such is the size and shape of the space, that it would not reasonably meet the usual expectations to be able to properly accommodate such items as well as clothes drying space and reasonable circulation space. Moreover, the internal configuration of the dwelling is such that occupants would not be able to achieve direct access to it, having instead to use the front door to walk around to the side. The limited internal dimensions of the proposed dwelling do not justify such deficiencies.
6. Also, the space is unlikely to receive much direct sunlight because of its position immediately adjacent to the north western side of the building along with the depth of the space and the size and position of the Norway spruce trees. Whilst there is additional space adjacent to the Norway spruce and between the building and the road, such spaces would be very limited in their usability and attractiveness as they would be directly overlooked and adjacent to the carriageway.
7. Reference is made by the appellant to the use of permitted development rights under Schedule 2, Part 3, Class P (storage and distribution centre to dwellinghouse) of the Town and Country Planning (General Permitted Development) (England) Order 2015. However, I have no evidence to confirm that such rights would apply if the front extension had been excluded from the scheme. I cannot therefore be certain that such a fall-back position is applicable and likely to proceed should this appeal be dismissed. This therefore limits the weight I am able to give to this argument.
8. I therefore conclude on this main issue that the proposed outdoor living space would be seriously deficient in terms of its size and usability and therefore would not provide acceptable living conditions for future occupants. This would be contrary to CS Policy CS.9 and paragraph 17 of the National Planning Policy Framework (the Framework), which seek to ensure, amongst other matters, a good standard of space and amenity for occupiers.

Trees

9. The south western part of the site is occupied by two Norway spruce trees. The tree survey submitted in support of the application states that they are mature in age and have fair vitality and structural form. It is also stated that the trees are of moderate quality and value but are important landscape features and provide habitats for bird species, insects and potentially feed areas for bats. The report recommends that both trees are retained. I agree. The trees are of notable amenity value because of their form, height,

- prominence from public vantage points and contribution to the character of the area.
10. The proposed car parking would take place within the identified Root Protection Area (RTA) of the trees. The majority of roots are in the top 600mm of soil and damage can be caused by compaction of the soil structure by the movement and parking of vehicles within the RTA. Soil that has been compacted will not provide suitable conditions for the survival and growth of the trees. It will adversely affect drainage, nutrient uptake and organic content, and will seriously impede or restrict root growth.
 11. I accept that that a van will have been parked at the site in connection with the appellant's business over many years and this will have already caused compaction within the RPA, particularly for tree No 1. I also note that the findings of the tree survey that both trees already have compromised rooting systems from the drive and parking area in the adjacent property and the finer root system that would extend under the public road. It is also stated that whilst this may have some impact on growth, the trees have been in this situation for many years and no adverse effects were noted.
 12. However, the appeal proposal shows a second parking space positioned between the two trees and close to the trunks of both, therefore likely adding a further extent of compaction. There would also be an increased risk of physical damage to the trees by vehicles manoeuvring within the site. I accept that cars are lighter than a commercial vehicle, however, this benefit would be outweighed by potentially having two vehicles parked on the site. It is also likely that the frequency of use for such a small premises would likely increase through residential use. Certainly the duration of the use would increase.
 13. Although the appellant has made reference to technical solutions to spread the load of vehicles within RPA's, I have not been provided with a scheme to demonstrate how this could be effectively deployed at the appeal site.
 14. I therefore find that the proposal would result in increased harm to the root function of the Norway spruce trees, which as a species are intolerant of root loss. Due to the acknowledged amenity and habitat value of the trees, an adverse effect to their vitality would in turn be harmful to the character and appearance of the area and result in a loss of biodiversity. This would be contrary to CS Policies CS.9 and CS.15 which state, amongst other matters, that proposals that would damage or destroy features which positively contribute to local distinctiveness will not be permitted and that all development at existing settlements is expected to protect and enhance the character of the settlement involved and its setting. The proposal would also be contrary to paragraph 118 of the Framework which states that local planning authorities should aim to conserve and enhance biodiversity.

Car parking

15. The Council's first reason for refusal states that the proposed car parking provision is not suitable for the purpose intended and could result in on-street parking to the detriment of other highway users and therefore that the development would compromise highway safety.
16. However, it is not explained why the parking provision is not suitable other than the Highway Authority stating that much of the site is adopted highway

and the provision of private parking and the proposed fencing-off of the adopted highway to create a garden would be inappropriate. The land ownership position is disputed by the appellant but in any case, the Highway Authority acknowledges that it may be possible to stop up part of the highway to enable the development.

17. Moreover, notwithstanding the issues relating to the trees, drawing number 2015/OX/2A demonstrates that two parking spaces can be provided within the site and the level of provision is acceptable for the development proposed. On this basis I see no reason why the proposal would likely result in on-street parking and therefore compromise highway safety. Accordingly, I do not find conflict with CS Policy CS.26, which states, amongst other things, that on-site parking will need to be sufficient in relation to an individual scheme to avoid unacceptable impact on the amenity of the local area or highway safety.

Other matters

18. The appeal site lies outside but close to the boundary of the Oxhill Conservation Area. The appeal proposal would involve limited external alterations and would have no material effect on the Conservation Area. Consequently, subject to no harm being caused to the Norway spruce trees, the proposal would preserve the setting of the Conservation Area.
19. In terms of the future of the building, I have no evidence that dismissal of this appeal would likely result in its sale and an associated increase in its use and harm to the living conditions of neighbouring properties. This therefore limits the weight I am able to give to this assertion.
20. I note the appellant's concern regarding the way in with the planning application was handled by the Council, however, these are not matters for this appeal which I have determined afresh and on its planning merits.

Conclusion

21. For these reasons, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Richard S Jones

Inspector