

Appeal Decisions

Hearing held on 22 November 2016

Site visit made on 22 November 2016

by Paul Dignan MSc PhD

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

Decision date: 16 January 2017

Appeal A: APP/TPO/D0121/5357

Tilsley House, 14-16 Clarence Road South, Weston-super-Mare, BS23 4BN.

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to undertake work to trees protected by a Tree Preservation Order.
 - The appeal is made by Mr Rizwan Govindji against the decision of North Somerset Council.
 - The application Ref: 16/P/0902/TPO was dated 1 April 2016.
 - The work proposed is to fell 2 weeping willow trees.
 - The relevant Tree Preservation Order (TPO) is the District of North Somerset 14-16 Clarence Road South, Weston-super-Mare (No. 1023) Tree Preservation Order 2015, which was confirmed on 14 January 2016.
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Appeal B: APP/D0121/W/16/3154825

Tilsley House, 14-16 Clarence Road South, Weston-super-Mare, BS23 4BN.

- 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 R Govindji (Solomon Care Ltd) against the decision of North Somerset Council.
 - The application Ref. 14/P/2752/F, dated 4 December 2014, was refused by notice dated 20 January 2016.
 - The development proposed is: Erection of a two-storey rear extension to care home to create 15 additional bedrooms.
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Decision

1. Appeal A: The appeal is dismissed.
2. Appeal B: The appeal is dismissed.

Appeal A – TPO appeal

3. This appeal concerns 2 weeping willow trees growing in the rear garden of Tilsley House, a pair of Victorian villas now used as a specialist care home. The property is within the Beach Lawns Conservation Area (CA). The trees themselves are only moderate specimens, possibly due to neglect resulting in poor crown structure. However, the garden backs onto Quantock Road, also within the CA, from which the trees are very visible over a relatively low stone wall and make a substantial positive contribution to the street scene in terms of character and appearance. The majority of the houses on Quantock Road are terraced houses set close to the highway on the southern side of the road, with little in the way of vegetation, and the reasonably verdant character of this part
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of the CA depends to a large extent on trees growing in the rear gardens, or former rear gardens now developed, of the Clarence Road South houses which back onto Quantock Road. The 2 willow trees are amongst the most notable trees in the Quantock Road street scene.

4. The TPO was made in response to development proposed which would require their removal, and Appeal B is concerned with the most recent iteration, but the reasons given as justification for their removal stand alone, and I deal with them on that basis. The trees are designated as T3 and T3 in the TPO. Both are similar in form and size. T3 is growing close to a 1.35m high stone wall along the historic boundary between 12 and 14 Clarence Road South, and has been implicated in some damage to the wall. An engineer's report has identified that some minor localised disruption of the matrix of the wall is starting to occur, but postulates that the level of damage to the wall will accelerate over time. It goes on to indicate a probability that the leaning nature of the tree will eventually cause it to fall over and demolish some of the wall, but that is a judgement that does not appear to be based on an understanding of tree growth and dynamics.
5. Nonetheless, although damage to the wall is slight at present, the close proximity of the tree to the wall is likely to eventually result in damage that requires remediation. The engineer's report has also identified works to the wall, buttressing and the insertion of a root bridging lintel, which would enable the tree and wall to co-exist into the future. The cost of such works must be put in the balance with the contribution that the tree makes to the area. In my view the potential for damage and the likely cost of works in the future does not provide justification for the harm to the character and appearance of the area that would result from the loss of the tree.
6. Tree T4 is in the middle of the garden. The justification for its removal is that it dominates part of the garden and imposes an overbearing presence within what is a relatively restricted space. The crown of the tree does not have a particularly wide spread, and the garden is substantial, but the point is made that the use of the property as a specialist care home means that there are necessarily restrictions on the parts of the garden available to residents. Even then, however, there seemed to me to be ample scope for residents to enjoy the confined area within which the tree is sited without being unduly influenced by the presence of the tree. Further, any genuine concerns about the effect of this tree could be resolved relatively easily by a reconfiguration of the garden's functional areas. The proximity of this tree to the main building has also been said to have potential implications for building insurance costs, but the underlying soil is not one associated with subsidence, and no other relevant hazard has been identified.
7. I did not find the problems attributed to the trees to be of sufficient magnitude to justify their removal, having regard to the contribution they make to the character and appearance of the area. I have noted that their crowns have been neglected and will probably benefit from some cleaning and pruning works. It has been suggested that the trees will need to be effectively pollarded, which will substantially diminish their amenity value for periods. However, any such works would require consent, and the Council's position at present is that such severe works would not be justified.

8. I am mindful of the considerable burden that the management of protected trees can place on the private landowner, including in this case the likely costs of wall repair and possible preventative works. In this case, however, I consider that these are not so great as to justify the loss of protected trees of considerable public amenity value. I conclude therefore, having considered all other matters raised, that this TPO appeal should be dismissed.

Appeal B – the planning appeal

9. As mentioned above, the appeal property, Tilsley House, is a care home comprising a pair of Victorian villas on Clarence Road South, with long rear gardens extending to Quantock Road, where there are 2 small garden buildings/stores. The appeal site also includes part of the former rear garden of 12 Clarence Road South which adjoins the car park for the next property to the west, Plumley Court, a large relatively recent development with buildings extending from Quantock Road to Clarence Road South. Tilsley House itself has been extended to the rear in accordance with a planning permission granted in 2012¹ for *Erection of 1no single and two storey rear extension and 2no first floor side extensions, to provide service wing, living space for residential care home and extra bedrooms following demolition of kitchen wing, pantry and rear conservatory*. However, this development is confined to the Clarence Road South end of the site and does not have any significant visual impact in the Quantock Road street scene. Plumley Court is itself a discordant element at odds with the surrounding development, but the predominant character of the local area derives from the terraced houses on the southern side of Quantock Road and the remaining undeveloped rear gardens of the Clarence Road South villas, which make a significant positive contribution to local character and amenity. The role of the views through and across the site was noted by English Heritage as contributing to the suburban qualities of the area, giving the sense of low density.
10. The appeal proposal seeks to provide an additional 15 bedrooms and associated resident facilities by adding an L-shaped 2-storey extension to the existing 2012 extension at the southwest corner of the building, culminating in a twin-gabled two storey element facing Quantock Road, which would be roughly on the building line of 2 other relatively recent dwellings on the northern side of Quantock Road. One of the existing stone outbuildings would be retained and linked to the southern end of the extension.
11. The scheme the subject of the appeal has been reduced in size and altered in appearance from the original submission, including drawing it back from Quantock Road and using more sympathetic materials on the facing elevations. It also has a lower roof-line than the main building to suggest subservience, along with elements intended to break up the bulk of the building, including a narrow flat roofed link element. However, the extension would be a very substantial addition to the existing building, extending 21m from the rear of the existing extended building, with a width of 21m and ridge height of 9.5m facing Quantock Road. It would appear as much a substantial new building in its own right as an extension of the main building, with which it would not be well integrated. The considerable impact of such a substantial building in the street scene would be mitigated to an extent by proposed landscaping, including hedges along the Quantock Road and car park boundaries and

¹ Council Ref. 11/P/2211/F

measures to retain a TPO Turkey that would be very close to the extension, but it would still be prominent, visually intrusive and somewhat incongruous in views from Quantock Road. Allied to the harm to local character and amenity that would inevitably result from the loss of the current open views across the Clarence Road South rear gardens and the direct loss of the two TPO weeping willow trees, I consider that the overall effect of the proposal would be detrimental to the character and appearance of this part of the Conservation Area. As such it would fail to conserve or enhance the character or appearance of the Conservation Area, and it would be contrary to Policies CS5, CS12, and CS28 of the North Somerset Core Strategy 2012 (CS), which seek to protect the landscape and historic environment and achieve high quality design and place making, along with Policies DM3, DM9 and DM32 of the Sites and Policies Plan Part 1: Development Management Policies 2016 (DMP), which relate specifically to the preservation of Conservation Areas, the retention where possible of trees of public amenity value and ensuring that new development is of high quality that is sensitive to local character.

12. There is some support from DMP Policy DM41, which supports extensions to care homes where there is a local need, but that policy also expects the character of the local area to be preserved. There are also benefits of the proposal for the care home business itself, in terms of flexibility and economies of scale, along with benefits for the local economy, not least in terms of employment opportunities. On balance however I consider that these benefits do not outweigh the harm to the Conservation Area, to which great weight must be given in accordance with national policy, along with the harm to local amenity and the conflict with the development plan read as a whole.
13. For these reasons, having regard to all other matters raised, I conclude that Appeal B should be dismissed.

Paul Dignan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Nick Davey
Alister Rankine
Joanna Ede
Mr Govindji

JTS Partnership LLP
Hillside trees Ltd
The Landscape Partnership
Solomon Care Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Judith Porter
Kate Hudson-McAulay
James McCarthy

Applications Manager, North Somerset Council
Conservation Officer, North Somerset Council
Tree Officer, North Somerset Council

INTERESTED PERSONS:

Jonathan Kirby

Local resident

DOCUMENTS

- 1 Council's letter of notification
- 2 Photographs of T7(TPO T2) Turkey Oak