

Appeal Decision

Site visit made on 24 January 2017

by R J Jackson BA MPhil DMS MRTPI MCMi

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

Decision date: 10 February 2017

Appeal Ref: APP/G1250/W/16/3162510

The Thatched House, East Howe Lane, Bournemouth BH10 5JF

- 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 Fish Developments Ltd against the decision of Bournemouth Borough Council.
 - The application Ref 7-2016-824-V, dated 15 July 2016, was refused by notice dated 16 September 2016.
 - The development proposed is erection of detached double garage and refuse store with home office above, and construction of a new stone retaining wall to Brook Road.
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Decision

1. The appeal is allowed and planning permission is granted for erection of detached double garage and refuse store with home office above, and construction of a new stone retaining wall to Brook Road at The Thatched House, East Howe Lane, Bournemouth BH10 5JF in accordance with the terms of the application, Ref 7-2016-824-V, dated 15 July 2016, subject to the conditions in the Schedule to this decision.

Main Issues

2. The main issues are the effect on:
 - the character and appearance of the area and the setting of The Thatched House as a Grade II listed building;
 - protected trees; and
 - highway safety.

Reasons

Character and appearance and setting of The Thatched House

3. The appeal site is located on the junction of East Howe Lane with Brook Road with access from East Howe Lane. This junction is at a lower level than the surrounding land which rises, quite steeply, along both these roads. Although originally a dwelling, the Thatched House was latterly a public house. However, planning permission was granted in 2014 to convert the public house into two dwellings and to construct four dwellings, in the form of two pairs of semi-detached houses, in the grounds, and various amendments to that permission have been granted subsequently. The four dwellings have been constructed on the southern part of the overall site facing East Howe Lane and
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- building operations have been taking place at The Thatched House. The planning permissions provide for the demolition of the garage block and its replacement with a parking area and stands for bicycle parking.
4. The grounds of The Thatched House are above the surrounding roads levels with vegetation around the perimeter of the site made up a mixture of trees and shrubs. The land rises steeply to the rear of the site away from East Howe Lane and built into this bank is the detached single storey flat roofed garage building.
 5. The National Planning Policy Framework (the Framework) defines “significance” as the value of a heritage asset to this and future generations because of its heritage interest. This interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence, but also from its setting.
 6. The Thatched House is listed at Grade II and is a well-preserved and “very pretty cottage ornee of circa 1820”¹. In support of the application a Heritage Statement was submitted which looks at the significance of the structure, but of more importance for this appeal also considers the significance of the setting. This it sees as principally being the landscaped garden spaces to the southeast, effectively the front garden, which forms a buffer to the roads and ensures that The Thatched House retains its semi-rural character. The Council does not dispute this but argues that the development should be considered on the basis that the existing garage is to be demolished and that the proposed building should be seen as a new structure rather than a replacement.
 7. The proposed double garage and refuse store with home office above (the garage building) would be set at an angle to The Thatched House. The home office element would be set within the roofspace with two rooflights within the front elevation. The proposed garage building would be seen against the backdrop of the bank and would not be intrusive within the street scene when viewed from East Howe Lane. Due to the extensive vegetation it would only be seen from Brook Road in glimpsed views.
 8. The proposed garage building would be seen as an ancillary structure to The Thatched House and would be of an appropriate design. The existing bank and vegetation to the rear already provides an enclosed setting for the Thatched House and the proposed garage building would be in keeping with that. While slightly closer to The Thatched House, the setting of The Thatched House would be preserved in the sense that the proposed garage building would do no harm to that setting. In line with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) special regard shall be had to the desirability of preserving the building or its setting.
 9. In that it would provide a storage area for bins would mean that they would not need to be located elsewhere, enhancing the setting of The Thatched House when compared to the approved scheme.
 10. The proposed retaining wall would be located along part of the Brook Road frontage. Currently the boundary bank is not retained, being essentially a mud bank with vegetation upon it. While there would be some loss of vegetation during construction, this would not be significant and a replacement planting

¹ Taken from the listing description

scheme, secured by a planning condition, would ensure that, in time, there would be no harm to the character and appearance of the area, meaning that the proposed wall would not adversely affect the significance of the listed building the setting of which would therefore be preserved.

11. Consequently, the proposed development would be in keeping with the character and appearance of the area and would preserve the setting of The Thatched House as a listed building and thus preserve its significance. The proposal would therefore comply with Policies CS39 and CS41 of the Bournemouth Local Plan: Core Strategy which seek to protect designated heritage assets from development that would adversely affect their significance and that development should, through its scale, layout, siting, character and appearance, be designed to respect the site and its surroundings. It would also comply with paragraphs 131 and 137 of the Framework which indicates account should be taken of sustaining and enhancing the significance of heritage assets to better reveal their significance.

Protected trees

12. A number of trees around the site are protected by a Tree Preservation Order² (the TPO). Of particular relevance to this appeal are an oak tree, T8 on the TPO and T15 on the Tree Protection Plan³ (the TPP) which accompanied the application, and a sweet chestnut (T7 on the TPO, T17 on the TPP). The TPP also makes reference to another oak tree, T16, but it is clear on the TPO drawing that this tree is excluded from the Order. However, there is still a requirement to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees⁴.
13. The existing Root Protection Areas (RPAs) of the trees and their canopies are already affected by the existing garage building and the canopies overhang the current garage building. Therefore maintenance issues would not change. In support of the appeal additional arboricultural information was submitted which indicated that the building would be below the canopies of the trees and consequently no canopy pruning would be necessary.
14. As the proposed garage building is at a different angle to the bank than the existing garage building there would be some excavation into the RPA of T7/T17. This would be a greater area than that allowed for under the approved plans where this area would be used for exterior parking. It is stated within the appeal documentation as being some 3 m² more than previously permitted, representing an additional 0.6% of the RPA, so as to total 0.9% of the whole.
15. While the default position should be that structures are located outside the RPAs of trees, where there is an overriding justification for construction within an RPA, technical solutions might be available that prevent damage to the tree.
16. Locating the garage building further away from the trees would mean that the garage building would be closer to The Thatched House which would harm the setting of the listed building. I am therefore satisfied there is an overriding justification for the works, as the amount of overall excavation within the RPA

² Reference 861/2009

³ Drawing GH14090.1 Revision 00

⁴ Section 197, Town and Country Planning Act 1990 (as amended)

of T7/T17 would, subject to appropriate methodology secured by condition, not be harmful to any of the three trees.

17. The report on the application indicated that the Council was concerned about "the proximity of the boundary wall to tree roots". It is not clear whether this is referring to the boundary wall of the proposed garage or the proposed boundary wall to Brook Road. In the former case the drawing shows that the existing retaining wall is to be made good, not replaced and I am satisfied that subject to an appropriate conditions requiring a revised Arboricultural Method Statement that the health and longevity of all three trees would not be adversely affected by the proposal.
18. The boundary with Brook Road is made up predominantly with shrubs. There is a large tree on the boundary shown on the drawings near to The Thatched House but this has been felled leaving only a stump, and there is a single immature tree closer to the junction with East Howe Lane. None of the trees in this area are covered by the TPO. I am satisfied that the proposed boundary wall would not adversely affect trees.
19. Therefore the proposed development would protect trees. As such it would comply with Policy 4.25 of the Bournemouth District Wide Local Plan which seeks sufficient land for planting and landscaping.

Highway safety

20. The Council has adopted a Parking Supplementary Planning Document (the SPD) to provide parking standards for new development. As the document was adopted following public consultation I give this significant weight in my decision.
21. The SPD indicates garages should have an internal minimum size of 6 m by 3 m "to ensure that a large modern family car will fit comfortably with room left for some general storage"⁵. It also states⁶ that the minimum dimensions for a standard car parking space is 5 m by 2.6 m.
22. The internal spaces of the garages are 5.1 m by 3 m meaning that the spaces would be wide enough to allow the driver to access/egress the car. The proposed building on the ground floor also provides for some storage in the lean-to section on the side. I am therefore satisfied that the purpose of the size standard set out in the SPD would be achieved within the whole building, as there would be sufficient space to park the cars and storage space would be provided elsewhere.
23. That being the case the proposal would provide sufficient parking to meet the needs of the development. That in turn, means that the proposed development would not result in parking off site or close to the entrance harmful to highway safety. The proposal would therefore comply with the intentions of the SPD. It would also comply with paragraphs 32 and 39 of the Framework in that safe and suitable access can be provided and appropriate levels of car parking would be provided.

⁵ Paragraph 2.1.9

⁶ Paragraph 2.1.1

Conditions

24. I have considered the conditions put forward by the Council against the requirements of the national Planning Practice Guidance and the Framework. In addition to the standard timescale condition, I have imposed a condition specifying the relevant drawings as this provides certainty.
25. I have also imposed a condition requiring tree protection measures to be implemented prior to works commencing on site in order to protect the trees during the construction period in the interests of protecting the character and appearance of the area and the setting of the listed building. Materials of the development, that is both the proposed garage building and the retaining wall, need to be submitted and approved in order to ensure that they are appropriate to the setting of The Thatched House and the area more generally. In addition, as identified above, conditions relating to the protection of trees, together with a revised Arboricultural Method Statement, and a landscaping plan are necessary to protect the character and appearance of the area including protected trees, and to ensure the setting of The Thatched House is preserved.
26. The Council has requested a condition that the use of the proposed garage building is restricted to being ancillary accommodation only. However, this is what is applied for and any independent use would need to be the subject of a separate application for planning permission. I therefore consider that such a condition is not necessary.

Conclusion

27. For the reasons given above I conclude that the appeal should be allowed.

RJ Jackson

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 013/035/08 Rev E, 013/035/018 Rev F, and 013/035/021 Rev B.
- 3) No equipment, materials or machinery shall be brought on site in connection with the development hereby permitted, and no works, including site clearance or any other preparatory works, undertaken until the tree protection measures set out on drawing GH1409.1 Revision 00 have been erected on site in accordance with the drawing and agreed in writing as complete by the local planning authority. The protection shall be retained until the development is complete and nothing shall be placed within the fencing, nor shall any ground levels be altered or excavations made without the prior written consent of the local planning authority.
- 4) No work of development shall take place until a revised Arboricultural Method Statement providing comprehensive details of construction works in relation to trees has been submitted to, and approved in writing by, the local planning authority. All works shall subsequently be carried out in strict accordance with the approved details.
- 5) No above ground development shall commence until details of the materials to be used in the construction of the external surfaces of the development hereby permitted, including doors, external stair and rooflights, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No above ground works shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping. The scheme shall include means of enclosure and hardsurfacing materials. The development shall take place in accordance with the approved details with all hard landscaping completed prior to the development being first occupied.
- 7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

End of Schedule