
Appeal Decision

Site visit made on 1 March 2017

by **S J Lee BA(Hons) MA MRTPI**

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

Decision date: 29th March 2017

Appeal Ref: APP/W4705/W/16/3165045
Orion, Hebers Ghyll Drive, Ilkley LS29 9QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr J Guest against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 16/03160/HOU, dated 19 April 2016, was approved on 17 June 2016 and planning permission was granted subject to conditions.
 - The development permitted is construction of detached garage.
 - The condition in dispute is No 2 which states that: *Two replacement trees shall be planted within 12 months from the date of felling T1. The replacement trees shall comprise of the species Walnut (Juglans regia) and must be 14-16 centimetres in girth (Extra Heavy Standard), planted within the front lawn of the application property but at least 1.5m away from areas of hardstanding and at least 2m outside the canopy spreads of existing trees and shrubs to Hebers Ghyll Drive, or as otherwise agreed before the felling of T1 takes place. All new trees must be to British Standard BS 3936 Nursery Stock rootballed or containerised staked and tied in accordance with good arboricultural practice. If within a period of 5 years from the date of planting a replacement tree is removed, uprooted, is destroyed or dies, another tree of the same size and species shall be planted at the same place or in accordance with any variation for which the Local Planning Authority gives its written approval.*
 - The reason given for the condition is: *To adequately replace the amenity lost from the removal of a mature tree in the interests of amenity and in accordance with NE4 of the replacement UDP.*
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Decision

1. The appeal is allowed and the planning permission Ref 16/03160/HOU for construction of detached garage at Orion, Hebers Ghyll Drive, Ilkley LS29 9QH granted on 17 June 2016 by City of Bradford Metropolitan District Council, is varied by deleting condition 2.

Background and Main Issue

2. Planning permission has been granted for a detached garage to the front of the dwelling known as Orion. A consequence of the siting of the garage would be the removal of a walnut tree from the front lawn of the property. The appeal site is within the Ilkley Conservation Area (ICA) and the Council considers that the tree contributes positively to the character and appearance of the area. The disputed condition requires two replacement trees.
 3. The appellant considers the condition is unnecessary because the existing walnut tree does not have any visual amenity value owing to its lack of visibility from publically accessible locations. For the same reason, he
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considers that any replacements would not add value to the character or appearance of the area. The appellant also considers the parameters put in place regarding the location of any replacements are unreasonably restrictive and unfeasible.

4. I consider the main issue to be whether the condition is necessary to preserve the character or appearance of the ICA.

Reasons

5. The appeal site is a large detached house set well back from the road behind a generous front garden and driveway. There is some variety in style and age of the buildings on Hebers Ghyll Drive, but many share the similar characteristic of being large detached dwellings in generous verdantly landscaped plots. Orion itself is identified as a key unlisted building within the ICA.
6. The front garden is laid out mainly to lawn, with a dense bank of trees and hedgerow providing the boundary treatment to the roadside. A number of trees on the frontage are subject to a Tree Preservation Order (TPO). The hedgerow continues to the side of the garden to provide the boundary with the neighbouring dwelling known as Stoke Lacey. The lawn is separated from the driveway by a high hedge, which also helps to enclose the space. There is an area of hardstanding between the house and the lawn which would be extended to serve the garage. Whilst there is some variation in the extent and nature of the landscaping along the frontage of the road, it is clear that the trees lining the boundary of this, and other properties, make a significant contribution to the character and appearance of the ICA.
7. Although the Council and the appellant suggest that the walnut tree is in poor condition, this is not supported by the evidence of the tree survey which found it to be in fair physiological and structural condition. I have therefore attached little weight to this point. Nevertheless, the Council did not dispute the assessment of the tree survey with regard to the amenity value of the tree, which it found to be low. I agree with that assessment.
8. The walnut tree is the only tree in the front garden not forming part of the dense boundary treatment. The tree can only be partially seen in minimal glimpsed views from the roadside through gaps in trees and between branches. While I recognise the tree complements the verdant and landscaped nature of the garden itself, it is not a prominent feature in the wider landscape. As such, it does not appear to me to be making an appreciable contribution to the character or appearance of the ICA in its own right or, as a consequence, the significance of the heritage asset.
9. In my view, the trees and other mature landscaping along the boundary of the site contribute most significantly to the character of the street and these would not be affected by the development. Therefore, the loss of the tree would go largely unnoticed from any publically accessible vantage point and there would be no material harm to the character or appearance of the appeal site or street scene if it were to be removed. For the same reasons, the proposed replacement trees would add little, if anything, to the character and appearance of the area.

10. Whilst I note that criterion 3 of Policy NE4 of the Replacement Unitary Development Plan¹ (UDP) requires developers to contribute to woodland cover in appropriate locations, this does not specifically state that replacement trees would be appropriate in every case. I also note that the supporting text to Policy NE4 states that whilst developers will be encouraged to include tree planting in their schemes, it is only in those areas identified in the Council's Woodland Strategy where they will be expected to make provision for new areas of tree planting. There is no suggestion in the evidence that the site is within such an area. The policy does not, therefore, create a blanket requirement for replacement trees and, in light of my conclusions on the lack of harm resulting from the loss of the tree, I do not consider that sufficient reasoning has been provided by the Council to justify the condition under this criterion of the policy.
11. In conclusion, I find that the removal of the tree would not cause material harm to the character or appearance of the area or the significance of the ICA as a whole. This constitutes a neutral effect and thus the development would be seen as preserving the character and appearance of the ICA. As there would be no material harm resulting from the development, there would also be no need to provide mitigation in the form of replacement trees.
12. As such, condition 2 is unnecessary. With or without the disputed condition, there would be no conflict with saved UDP Policy NE4 which seeks to resist development that would result in the loss of trees which contribute to the amenity of the built up area or the character of a settlement or its setting. Although not identified in the reason for the condition, I also consider that removing the condition would not lead to any conflict with UDP policies BH7, D1 or UR3 which seek, amongst other things, to ensure development is of a good quality of design which preserves or enhances the character or appearance of the Conservation Area and does not have an adverse effect on the surrounding environment.

Other matter

13. I have already found that condition 2 is not necessary to preserve the character or appearance of the ICA. As a result of this, I do not need to give further consideration to whether the condition is reasonable in terms of the feasibility of planting two trees in accordance with the condition's requirements on siting.

Conclusion

14. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition.

S J Lee

INSPECTOR

¹ Replacement Unitary Development Plan for the Bradford District – Adopted October 2005