
Appeal Decision

Site visit made on 7 November 2017

by A A Phillips BA (Hons) DipTP MTP MRTPI

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

Decision date: 1 December 2017

Appeal Ref: APP/R0660/W/17/3179798

Land formerly in the garden of No 35 Chancery Lane, Beechwood Drive, Alsager

- 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 Ms Caroline Bailey against the decision of Cheshire East Council.
 - The application Ref 17/1041C, dated 21 February 2017, was refused by notice dated 25 April 2017.
 - The development proposed is a dormer bungalow comprising first floor bedrooms No 2 with en suite and ground floor WC, laundry, shower room, study, sitting room/bedroom, kitchen and lounge dining room.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i. Whether the proposal would provide satisfactory living conditions for future occupants with particular reference to light and outdoor amenity space; and
 - ii. The effect of the proposal on adjacent protected trees.

Procedural Matters

3. Since the determination of the application the Cheshire East Local Plan Strategy 2010-2030 (CELPS) has been adopted. Consequently Policies GR1 and NR1 of the Congleton Borough Local Plan First Review Adopted January 2005, referred to in the Council's decision notice, have been deleted and replaced by other policies. The Council considers that Policies SD1, SD2 and SE5 of CELPS are most relevant to the current appeal.

Reasons

4. The appeal site comprises a sectioned off plot of lawned garden associated with No 35 Chancery Lane. Planning permission has previously been granted in December 2012 for the erection of a detached bungalow on the site. The current proposal is for a detached dwelling. The evidence before me shows that the proposed dwelling would be on a smaller plot than the previously approved scheme.

5. There are three individual trees and a group of trees along the south of the site which are protected by Tree Preservation Order. These mature trees are important in terms of their positive contribution to the visual amenity and character of this verdant high quality residential area. The trees in question closest to the proposed dwellings are a lime and two beeches.

Living conditions

6. The appellant's Arboricultural Impact Assessment and Method Statement September 2015 (AIA) acknowledge that the site is dominated by the mature trees which will inevitably result in shade to the proposed garden and dwelling. Owing to the orientation of the plot and its relationship with the trees the shadowing will be significant. There would be minimum shading to the east in the mornings and more significant shading will occur during the afternoon and evening. Furthermore, the site is also affected by poor quality light due to the proximity and density of the immediately adjacent tree canopies.
7. Given the relationship with the protected trees and as a consequence of the reduction in the plot size it is clear to me that the dwelling and its associated outdoor amenity space would suffer from poor quality daylight and also significant overshadowing to the extent that levels of light to habitable rooms and the outdoor amenity space would be particularly poor. The shading and overshadowing would be very significant to the extent that the use of the gardens would be restricted.
8. Therefore, on this issue I conclude that the proposal would fail to provide satisfactory living conditions for future occupants with particular reference to light and outdoor amenity space. As such it would conflict with Policy SD2 of CELPS and the National Planning Policy Framework (the Framework) which, among other objectives seek to ensure that development provides open space appropriate to the development and particular attention should be given to landscape features.

Protected trees

9. The Tree Survey Report and AIA have been submitted with the appeal. The report's description of the trees and the assessment make it quite clear to me that the trees offer a significant positive contribution to public amenity and the verdant high quality attractive residential surroundings.
10. 1T (as identified in the AIA) is a mature beech which is considered to be a high value retention category with landscape qualities and is of high visual importance as a landscape feature in the residential area. The AIA states that future works to the tree will be necessary due to the dominance of the tree over the garden of the proposed residential plot, but that overall the impact of the development will be low. 2T is a mature lime which has been previously pollarded and is categorised as being moderate retention value. Finally, 3T is a particularly prominent tree adjacent to the highway with a high value retention category.
11. I am satisfied that on the basis of the evidence before me the proposal would not impact on the root protection zones of the trees, Furthermore, the appellant states that there is no intention to carry out future works to the trees in question other than normal maintenance and subject to the approval of the local planning authority. The AIA considers that future pruning of 1T would not

be harmful to the tree and that operations such as branch reduction and maintaining a lower canopy clearance would have a negligible impact on the amenity value of the tree. However, the tree is located very close to the property boundary and overhangs the appeal site including over the proposed patio area and to within approximately two metres of the western elevation of the dwelling. Crown lifting and other operations are likely to have only some limited benefit in terms of improving levels of daylight and would have little effect on improving daylight and the impact of overshadowing and dominance. Therefore, I consider that the effect on the proposed property and outdoor amenity space would be significant to the degree that there would be future pressure from future residents to carry out harmful operations to the tree or even fell the tree in order to improve living conditions.

12. The proposed dwelling would be less than ten metres from the lime 2T. The impact from shading on the proposal is likely to be relatively low; however, the AIA acknowledges that future residents may wish to undertake more significant operations to the tree to increase light levels. Such works may include canopy reduction, for example.
13. However, at my site visit I observed that the tree has particularly dense branch growth and a dense foliage crown and therefore the potential removal of basal growth is unlikely to significantly increase light levels to the property because most daylight and sunlight restriction is due to the dense foliage at higher levels combined with the orientation of the tree in relation to the proposed dwelling and associated outdoor space. I am therefore concerned that future residents may wish to undertake unsustainable works to the tree to improve their living conditions or request felling.
14. The AIA is quite clear that 3T will be a primary cause of shading within the garden area and future residents are reasonably likely to request future pruning. Reduction to the lower canopy is also proposed. However, given the overall height of the tree and the density of the canopy and foliage pruning the lower canopy is unlikely to improve the quality of daylight and sunlight. Of greater concern would be the likely pressure for further pruning which is not considered a suitable solution for beech trees which do not tolerate regular and heavy pruning. Consequently, I do not consider the proposal to be acceptable due to the likely future pressure for unsustainable works to the tree or felling in order to improve living conditions.
15. Therefore, on this issue I conclude that the proposal would be likely to have a harmful effect on adjacent protected trees and would conflict with Policies SD1, SD2 and SE5 of CELP which among other objectives seek to protect and enhance the natural environment and state that development proposals which are likely to result in the loss of or threat to the continued life expectancy of trees that make a significant contribution to amenity will not normally be permitted.

Other matters

16. The appellant has drawn my attention to other cases where permission has been granted for developments on similar plots. However, I do not have the specific details of these cases or the circumstances that led to permission being granted. In any case I have determined the current appeal on its own merits having particular regard to the specific circumstances and features of the site and its surroundings and the proposal before me.

17. The appellant also contends that the local planning authority has indicated that there is no possibility of the appeal plot being developed for residential purposes. However, I have determined the appeal on the basis of their original decision and the evidence presented by all parties.

Conclusion

18. For the reasons given above and taking into account other matters raised I conclude that the proposal conflicts with the development plan taken as a whole and that the appeal should be dismissed.

Alastair Phillips

INSPECTOR