



Appeal Decision

Site visit made on 9 July 2018

by Rachel Walmsley BSc MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2018

Appeal Ref: APP/H1840/W/18/3196778

Nos 17, 19 & 21 Holloway, Pershore, Worcs WR10 1HW

- 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 Tina Surman against the decision of Wychavon District Council.
 - The application Ref 17/01578/FUL, dated 27 July 2017, was refused by notice dated 28 September 2017.
 - The development proposed is demolition of existing garage & erection of 3 new dwellings to the rear of Nos 17, 19 & 21 Holloway, Pershore including new shared access driveway, car parking & landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are:
 - (i) the effect of the proposal on the character and appearance of the area; and,
 - (ii) the effect of the development on a protected tree.

Reasons

Character and appearance

3. Holloway is characterised by detached and semi-detached houses. The appeal site is on the south side of the road which is dominated by detached houses which share a building line that fronts the street and have gardens and driveways to the front and long gardens to the rear. The properties are within good sized plots and therefore the houses are reasonably spaced. The spacing of properties, together with the moderately sized frontages creates a sense of spaciousness which gives the street its pleasant residential character.
4. Previously the rear gardens to the appeal site and the adjoining properties were shorter than at present. However the existing context is one of longer gardens that extend from the rear of the properties. These gardens change in character with distance from the properties. Within close proximity of the houses the gardens are domestic and manicured in character and occupied by garden accoutrements. Further away from the houses the gardens become more natural and open with a prevalence of mature trees and landscaping that

creates a relaxed sense of place. There was evidence on my site visit of sheds and other similarly small outbuildings within the lower reaches of the rear gardens, including at the appeal site. However, being modest in scale they remain ancillary to the wider landscape and therefore do not detract from the natural and open character described.

5. The development would introduce three houses within the rear gardens of No's 17-21 Holloway. The properties would exhibit a degree of permanence and would urbanise the rear gardens of the properties concerned. This would contrast awkwardly with the natural and open character of the area.
6. The development would also introduce a form of backland development that is not characteristic of the area. I recognise that there are more intense forms of development within the area, including cul-de-sacs of houses. Nonetheless these are large and more comprehensive areas of development which are clearly separate from the more linear and spatial form of development along Holloway. The development would therefore introduce a new form of development into an area with a well-established open character. As a result the development would be inconsistent with the existing pattern of development and would appear incongruous.
7. The houses would be a distance from the highway and behind the existing frontage properties. Consequently, from Holloway, the development would only be visible in glimpsed views. Nonetheless, an access would lead from Holloway to the land behind to serve the three dwellings proposed. This access, in serving three houses, would intensify the number of vehicular movements across the frontage to Holloway. This intensification of activity would be out of keeping with the more modest movements across frontages that accompany individual properties.
8. Whilst the existing frontage to No 19 Holloway is dominated by hardstanding, most frontages along Holloway are landscaped with trees and shrubs and have driveways that are secondary in appearance to the frontages' character. The frontages to No's 17-21 would be dominated by hardstanding which would be overly dominant and out of keeping with the more ancillary character of existing frontages as described. Together with the intensification of vehicular movements at the site, the appeal site would exhibit an overly urban character which would be out of keeping with the more relaxed and verdant character of the street.
9. The development would provide a number of positive benefits, not least the provision of housing to meet an identified local need and with a good standard of amenity. Weighed against these benefits is the harm that I have found to the character and appearance of the area as a result of the development proposed. The benefits would not overcome the harm identified and therefore the proposal would be contrary to policy SWDP 21 of the Local Plan¹ which seeks development that integrates effectively with its surroundings and reinforces local distinctiveness.

Protected tree

10. The cedar tree that is protected by a Tree Preservation Order is within the rear garden of No 15 Holloway, a property which adjoins the appeal site. Within the

¹ South Worcestershire Development Plan (adopted February 2016)

area surrounding the appeal site there are trees of varying species and sizes which contribute to the verdant character of the area.

11. The cedar tree is an attractive and well-formed tree of its species. Given its height of approximately 12 metres and its species which is distinct from other trees around, it stands apart from and is easily distinguishable within its surroundings. Nonetheless, the tree is only visible from Holloway in glimpsed views because of its position behind the frontage properties, and from houses and gardens nearby. As a result the tree makes a modest contribution to the verdant character of the area with a moderate impact on the local environment and the public's enjoyment of it. The loss of the tree would therefore result in some harm to the character and appearance of the area to which I afford moderate weight. Any reasons to justify mitigating future harm to the tree must therefore be convincing.
12. Whilst the protected tree is outside the appeal site, its canopy and Root Protection Area (RPA) overrides the site's boundary. One of the dwellings proposed would be within part of the tree's RPA and underneath its canopy. The potential for root damage as a result of the development is acknowledged within the appellant's evidence. It is therefore proposed to construct the dwelling that would be nearest the tree with an above ground pile and beam/raft foundation with rainwater diverted under the footprint of the building (subject to soil analysis and engineer's specifications). Whilst I have no doubt that this method of construction can be a reasonable form of mitigation against tree damage, the evidence does not demonstrate that this method would be achievable for the development proposed. Based on the evidence before me, therefore, I cannot be certain that the development would not result in root damage, particularly given the extent of the building within the RPA.
13. I have considered the possibility of securing any permission with a condition to ensure that the development is constructed in a way to safeguard the tree. However, I do not consider it appropriate to secure the fundamentals of construction by condition without some reassurance beforehand that the methods proposed could be delivered on site.
14. To facilitate the development the canopy of the tree would need to be lifted to 5 metres. This would be almost half the height of the tree which would have a material effect on the tree's shape and appearance, harming its appearance as an attractive and well-formed tree of its species.
15. The evidence before me reports an existing canopy height of over 7 metres. It was apparent from my site visit that the lower branches complemented the height of surrounding greenhouses and sheds which commonly sit at 2-3 metres. In the absence of any specific or substantive evidence to prove otherwise, therefore, I attach little weight to the existing height of the canopy being a reason to justify the canopy works proposed.
16. The evidence before me confirms that the Council, in July 2017, granted works to lift the canopy to a maximum of 3 metres to include an undisclosed amount of pruning work that had already been carried out. Even when accounting for an undisclosed amount of pruning work, I am of the opinion that the canopy of the tree currently sits higher than that permitted by the Council. The consent for tree works presented by the appellant, therefore, does not set a favourable precedent for the canopy works proposed.

17. The canopy of the tree would overhang one of the dwellings proposed and therefore would restrict the level of daylight into a bedroom and to an outdoor garden space. Nonetheless, given that the bedroom window would not be directly under the tree's canopy, and that levels of daylight into a bedroom are less imperative than for a living area where occupiers are more likely to dwell during daylight hours, the restriction to daylight would not have a discernible effect on the living conditions of future occupiers.
18. The outdoor garden space concerned would be to the side of the property and therefore where occupiers are more likely to move through the space than dwell in it. Any overshadowing caused by the tree, therefore, would not be harmful to occupier's enjoyment of the garden. Nonetheless, being a cedar tree it is likely to drop needles. Needles can often be a nuisance to residents which in turn would put pressure on the Council for works to the tree, to either severely prune or ultimately remove it. The tree's removal would ultimately have an adverse effect on the character and appearance of the area.
19. I accept that none of this necessarily means that the removal of the tree would be justified and the Council could refuse any application for works to the tree. However, BS 5837:2012 – Trees in Relation to Design, Demolition and Construction advises that the perceptions of future occupiers can lead to pressure for inappropriate tree works, including removal which the Council would have difficulty in resisting. The appellant provides the results of research that was carried out regarding the pressure for inappropriate pruning or tree removal. There is nothing within the results to suggest that the protected cedar tree would not be subject to such pressures. Consequently I consider that there would be inadequate space between the cedar tree and the dwelling for nuisances to be avoided.
20. In all, the proposal points to an un-harmonious relationship between the tree and the development proposed which would harm the long term retention of this important tree. As such the proposal would be contrary to policy SWDP21 (criteria b) and policy SWDP25 (criterion aii) of the Local Plan which seek development that complements the distinctive features of the local landscape and its setting.

Other matter

21. I recognise that the development has been the subject of favourable pre-application discussions. However, advice given at the pre-application stage is informal advice that does not prejudice the Council's decision on a subsequent planning application. In any event, it falls to me to decide the merits of the development proposed.

Conclusion

22. For the reasons given and having regard to all other matters raised, I conclude that the development would be contrary to the development plan when taken as a whole. There are no material considerations to suggest a decision other than in accordance with the development plan and therefore the appeal is dismissed.

R Walmsley INSPECTOR