
Appeal Decision

Site visit made on 25 June 2019

by Karen Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday, 25 July 2019

Appeal Ref: APP/P4415/W/19/3226427

2 Oaklands, Wickersley, Rotherham, South Yorkshire S66 1EZ

- 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 Olga Kapeller against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB/2018/1301, dated 20 August 2018, was refused by notice dated 7 December 2018.
 - The development proposed is erection of a single detached dwelling with integral garage along with removal of trees to accommodate within the curtilage of 2 Oaklands, Wickersley.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue the effect of the proposal on the character and appearance of the area, including the implications for the retention and health of protected trees and non-protected trees, on the site.

Reasons

3. The appeal site forms part of the private garden of No 2, within a residential area of detached dwellings set within substantial plots. A number of mature trees lie within the site boundaries, including a grouping of Sycamore trees to the rear, notably a large Oak tree is located to the east to the frontage of the site. A mature hedge is located along the southern boundary. There are twelve individual trees on site protected by a Tree Preservation Order (TPO).
4. The development itself would lead to the loss of eight trees including small trees on the site which are not protected, such as Sycamore, Conifer, Cypress, Cherry. Two Sycamore (T7, T16) are covered by the TPO. The removal of these would lead to a change in character and appearance of the site with loss of some tree cover and a change to the spacious garden setting of the mature trees. The Oak (T15) would be pruned. The extent of pruning to the Oak would be excessive and the overall change from these tree works would be perceived as being negative and would harm the character and appearance of the area.
5. The arboricultural report submitted with the application indicates that the trees all have a retention category of C, indicating trees of low quality with an estimated life expectancy of at least 10 years. There are points within the

- report which contradict itself, particularly the conclusion where the Oak tree is described as likely to have a long future life. The report also highlights the importance of the protected woodland to the north and the great benefit it has to neighbourhood biodiversity, whilst acknowledging how trees have effectively become part of the woodland, which is contrary to the appellants statement.
6. The spread of the protected and non-protected Sycamore trees and the protected Oak tree are a significant feature of the private garden to the front and rear of the site. The Sycamore trees have matured over the years, interlinked and formed a cohesive border with the woodland and as such are considered to interact with canopies of and coverage of the protected woodland towards the north. Thus, their positive reflection of the woodland contributes to the character and appearance of the street scene and the area. Although, the non-protected trees as the appellant points out could be removed without consent and would benefit other trees including those covered by the TPO, it is likely that this would cause further harm to the branches and coverage being exposed leaving the trees vulnerable. The excessive pruning and loss of trees to facilitate the proposed dwelling would significantly impact on this protected woodland causing harm to its health and safety and long-term wellbeing.
 7. The site is within the Council's designation for green infrastructure, particularly in connection with the protected woodland and the sites amalgamation with this. The appellant has concerns regarding the designation, however the site would clearly fall within the definition of green infrastructure as set out in the National Planning Policy Guidance (NPPG)¹.
 8. I note the Council's concerns in relation to the co-existence of the trees and the proposed dwelling, given their proximity and the likelihood for there to be pressure from future residents of the dwelling for further tree removal and pruning due to the perceived risk of trees falling and/or over shading of the dwelling and their garden. In any case the TPO, would protect some of the remaining trees from being felled.
 9. However, the position of both mature TPO Sycamore and Oak trees relative to the garden areas of the proposed dwelling would lead to it being over-dominated by their spread. The overshadowing, safety and maintenance issues that could arise, particularly from the Oak tree may lead to pressure to cut back or remove the preserved tree in the longer term. I find this to be an unacceptable situation and the proposed development would harm the health and structural safety of protected trees detrimental to their wellbeing and longevity.
 10. The Council assessed the amenity value of the trees using a CAVAT (Capital Asset Valuation of Amenity Trees). The findings indicate that there would be a reduction in tree related amenity in the area with a financial sum (net value) required for the loss of the trees with replacement elsewhere within the area. The Council have not provided any specific details for a planning obligation, justification that this could indeed be secured, or details of the location of replacements and their overall feasibility. I agree with the appellant's view as to whether this is reasonably related in scale and kind to the development and their concerns about whether the value quoted would meet the tests set out in paragraph 56 of the National Planning Policy Framework (the Framework). Hence, it carries no weight and does not outweigh the harm I have found.

¹ (Paragraph: 027 Reference ID: 8-027-2160211)

11. There is an extant planning permission relating to the site. This permission forms part of a wider residential development from 1998 for the erection of four dwellings. Only three have been constructed. Some 21 years has now passed and the trees within the site have significantly matured; the Development Plan and National Planning Policy has changed. While there is a greater than theoretical possibility that this development might take place, further permissions are likely to be required from the Council for works to the protected trees given their maturity over the time and their substantial growth, whilst interlinking with the protected woodland. From the evidence before me, any such works would likely to be a concern for the Council. I am not therefore certain that the effect of the fallback position advanced compared to that which the appeal scheme would cause. Consequently, the fallback position advanced does not outweigh my findings.
12. I therefore conclude that the proposal would result in significant harm to the character and appearance of the area, including the implications for the retention and health of protected trees and non-protected trees, on the site. The proposal would be contrary to Policy CS19 and CS20 of the Adopted Rotherham Local Plan, Core Strategy 2013-2028 (2014). The broad aims of these policies are to manage and protect the natural environment; protect green infrastructure; assists the integration of new development into the natural environment whilst safeguarding.
13. For the same reasons the proposal would fail to conform with the policy relating to conserving and enhancing the natural environment as set out in section 15 of the Framework, specifically engaging paragraph 170 thereof, which ensures where decisions should enhance the natural and local environment.

Other Matters

14. I acknowledge the neighbour's comments in relation to supporting the application and having works to the trees is desirable to ensure the risk of safety and falling branches, however these matters do not outweigh the concerns I have raised above.

Conclusion

15. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

Karen Taylor

INSPECTOR