



Appeal Decision

Site visit made on 23 July 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 August 2019

Appeal Ref: APP/R0335/W/19/3227068
81 Church Street, Crowthorne RG45 7AW

- 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 Mr Ben Seferaj against the decision of Bracknell Forest Borough Council.
 - The application Ref 18/00812/FUL, dated 10 August 2018, was refused by notice dated 2 April 2019.
 - The development proposed is 1.5 storey 1no. bedroom detached residential unit.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the removal of protected trees on the character of the area; and
 - The effect on the integrity of the Thames Basin Heaths Special Protection Area.

Reasons

Protected trees

3. The appeal site is modest in size and contains a street-facing commercial unit at ground floor with a residential unit above/behind (the existing building). A rear garden area, where the proposed dwelling would be sited, is accessed via a pathway that runs the side of the existing building.
4. The rear garden area contains 4 trees, and 3 of these are protected by a Tree Preservation Order that was confirmed by the Council in April 2019 (the TPO). The site is also contained within the Crowthorne Church Street Conservation Area (the Conservation Area), such that the trees would be protected in any event. The trees subject to the TPO consist of a Silver Birch (T1) situated to the eastern boundary and close to the existing building and 2 Hazels (T2 and T3) situated in proximity to each other along the rear boundary of the site. The fourth tree (not subject to the TPO) is a Holly tree of small scale and limited consequence.
5. From inspection, I observed the trees subject to the TPO (the trees) to be in decent health with fresh leaf growth in evidence. This is notwithstanding their

- categorisation in the submitted Arboricultural Report (February 2019) as trees of low quality and limited merit. Whilst T1 is taller and therefore more prominent when compared to specimens T2 and T3, I observed that all 3 trees were of sufficient height and size to influence the character of the local area. Whilst I acknowledge the proximity of T1 to the existing building, which would likely affect its long-term suitability for retention, and the multi-stemmed form and presence of ivy with respect to T2 and T3, it was apparent from inspection that no other trees were situated in their immediate vicinity and that the trees provide welcome visual relief in an otherwise built up area.
6. Whilst I acknowledge that views of the trees from outside the appeal site are restricted due to the presence of intervening buildings, it is still the case that they are visible from selected publicly accessible viewpoints. This is perhaps most pertinent from High Street where a break in frontage to the east of the site is in evidence. It was also apparent from inspection that there is a strong residential presence to the rear of the appeal site and, whilst private access arrangements would be in place with respect to such areas, I accept the Council's argument that residents would benefit from the visual amenity value offered by the trees.
 7. I note that objections were made to the Council when the TPO was recommended and a copy of the objection made on behalf of the appellant has been provided in the evidence before me. For the avoidance of doubt however, whilst it is my duty to assess the planning merits of the proposal before me, it is not for me to assess the suitability of the process followed by the Council in confirming the TPO. I have nevertheless considered the various points raised in this correspondence, including with respect to the visibility of the trees and their size, form and life expectancy.
 8. I am however satisfied from the evidence before me and my own inspection that the trees, whilst not of the highest value when considered as individual specimens, make an important contribution to the character and appearance of their immediate surroundings. A contribution that I am satisfied is likely to continue for a significant period, particularly with respect to T2 and T3, and that, if lost, could not be mitigated for by replacement planting. This is particularly given the space constraints of the site. Indeed, the evidence before me indicates that merely a single replacement tree is proposed and that the site would have difficulties in sustaining a schedule of tree re-planting any greater in extent than this.
 9. For the above reasons, the proposed removal of protected trees would cause harm to the character of the area. The proposal would conflict with saved Policies EN1, EN2 and EN20 of the Bracknell Forest Borough Local Plan (2002) (the Local Plan) and Policies CS1 and CS7 of the Core Strategy Development Plan Document (February 2008) (the Core Strategy) in so far as these policies state that planning permission will not be granted for development which would result in the destruction of trees and hedgerows which are important to the retention of the character and appearance of the landscape or townscape.
 10. The appellant's written evidence, including the Arboricultural Report, allude to all trees being removed from the site, which is the basis upon which my above considerations are made. I note however that the submitted existing and proposed site plans (A1480_02 p2) and ground floor plan (A1480_03 p2) appear to indicate the retention of T1. Indeed, it would appear that the

proposal could be implemented without necessitating the immediate removal of T1. This is notwithstanding that the tree constraints plan contained within the Arboricultural Report indicates that built development would occur within T1's root protection area. In any event, even should the proposal only result in the loss of protected specimens T2 and T3, it would still be the case that the development would cause unacceptable harm to the character of the area for the reasons set out above.

Special Protection Area

11. The site lies in the proximity of the Thames Basin Heaths Special Protection Area (the SPA) and therefore I must consider the appeal against The Conservation of Habitats and Species Regulations 2017. These regulations require that, where the project is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), the competent authority must make an appropriate assessment of the implications of the project in view of the relevant site's conservation objectives. This is consistent with the various requirements of retained Policy NRM6 of the South East Plan, Policy EN3 of the Local Plan and Policy CS14 of the Core Strategy.
12. The site is located closer than 5km to the SPA and thus the proposal would be likely to have a significant adverse effect. I note from the evidence before me that the Council, in the process of determining the planning application that is now the subject of this appeal, undertook its own appropriate assessment. This ultimately identified a total SPA-related financial contribution for the proposal of £4,802, which Natural England has raised no objection to. I note that a signed legal agreement to this effect is not before me.
13. For the purposes of this appeal, I am the competent authority and must, before the grant of planning permission, undertake my own appropriate assessment prior to considering the issue of mitigation. However, as I have found the appeal proposal unacceptable for other reasons, it is not necessary for me to undertake an appropriate assessment nor to pursue this matter any further as part of this decision. For the avoidance of doubt, if I had done so and a positive outcome had ensued it would not have affected the planning balance or my conclusions on this appeal.

Other Matters

14. As stated above, the appeal site is contained within the Conservation Area. There is a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of such areas. Its significance as a designated heritage asset is drawn in-part from its varied collection of historic buildings as well as its green spaces and assemblage of mature trees. St John the Baptist's Church and its surrounding triangular courtyard, situated to the western end of the Conservation Area, contributes in no small part to the area's special interest.
15. The appeal site is located to the eastern side of the Conservation Area where a relatively compact pattern of development is generally in evidence and planting is limited in extent. The trees have a visible presence and, from the High Street, can be seen against the backdrop of more verdant parts of the Conservation Area situated to the west. The proposal, which involves the loss of trees and their replacement with a 1 and a half storey building, would result

in a limited extent of harm being caused to the character and appearance of the Conservation Area and thus a loss of heritage significance.

16. In accordance with the requirements of the National Planning Policy Framework (February 2019) (the Framework), any less than substantial harm to a designated heritage asset should be weighed against the public benefits of the proposal. The Framework reaffirms the Government's objective of significantly boosting the supply of homes and the proposal would deliver an additional housing unit. This contribution of a single small dwelling would be modest however and would not, I consider, outweigh the loss of significance (albeit limited in extent) that would be caused. This would be even if T1 was sought to be retained as part of the proposal.

Conclusion

17. For the reasons set out above, the appeal is dismissed.

Andrew Smith

INSPECTOR