
Appeal Decision

Site visit made on 12 August 2019

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd August 2019

Appeal Ref: APP/J3720/W/19/3231321

Land adjacent to Ferndale, Warwick Road, Gaydon CV35 0HD

- 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 YPL Gaydon Ltd against the decision of Stratford-on-Avon District Council
 - The application Ref 19/00253/FUL, dated 28 January 2019, was refused by notice dated 23 April 2019.
 - The development proposed is the erection of one four bedroom dwelling with parking and turning area, landscaping and other associated works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application originally had three reasons for refusal. In their appeal statement the Council indicated that since the application was determined, as part of the work on the emerging Site Allocations Plan, the draft Built Up Area Boundary for the village has been revised. As a result the site was now situated within this boundary, and so they were no longer contesting the first reason for refusal. I have determined the appeal on this basis.

Main Issues

3. The main issues in the appeal are the effect of the proposed development on:
 - the character and appearance of the area; and
 - the prospects of retaining protected trees.

Reasons

Character and appearance

4. The appeal site lies adjacent to a site where 2 houses are currently under construction. To the front is mature hedging and to the side is a row of protected Wellingtonia trees, which severely limits views of the site. Whilst there are a small number of houses along Warwick Road, the boundary hedging and the distance they are set back from the road means there is little visibility of them. This, together with the open land on the opposite side of the road gives the vicinity an open, rural character. This contrasts with the more suburban character created by the large detached housing along Kineton Road.

5. Unlike the other houses on Warwick Road, despite being set back from the road, the two houses under construction on the wider site are clearly visible at present from the site access. However, the location of the appeal site means that there would be minimal views of the proposed dwelling from the public realm.
6. The two adjacent houses have a similar design, with one being set slightly to the rear of the other. The proposed dwelling would have a slightly different design, but the projecting gable feature, ground floor bay window and use of similar materials, would ensure it would complement the other two houses. Its position, set slightly back in relation to the adjacent house, would also be in keeping with the rest of the development. In any case, given the very varied design of housing in the vicinity, I consider the fact that the appeal dwelling would be slightly different to the other houses on the site would not make it an incongruous feature in the area, especially considering the limited ability there would be to see the house.
7. The distance that would be maintained between the side elevation of the proposed dwelling and that of the adjacent house would be similar to that between the houses currently being built on the site. Whilst I accept that it is the single storey attached garages of these houses that form the closest elements, the cat slide roof and lower ridge line would similarly reduce the mass of the proposed dwelling closest to the adjacent house. Furthermore, the ample space to the front, other side and rear of the dwelling would ensure that the dwelling would not appear cramped or the plot over developed.
8. Therefore, I am satisfied that the proposal would not be detrimental to the character and appearance of the area. Accordingly, it would not conflict with Policies CS.15, CS.5 and CS.9 of the *Stratford-on-Avon District Core Strategy 2011-2031 (adopted July 2016)* (CS) which, amongst other things, seek to ensure developments have a high quality of design that protects, reflects and enhances the character and distinctiveness of settlements, their setting and the landscape.

Protected Trees

9. Immediately adjacent to the site lies a row of 6 protected Wellingtonia trees. These are of considerable height and make a significant contribution to the character, distinctiveness and appearance of the area. The trees are clearly visible along Warwick Road, above the houses on Kineton Road, and from the roundabout with the B4100. The application was accompanied by a Tree Survey Report dated January 2019. This indicated that the proposed dwelling and associated parking area would impact the root protection areas (RPA) of 5 of these trees. However, it anticipates that none of the structural roots would be affected and that the incursions would be less than 20% of each tree's RPA. Various construction methods are recommended to further minimise the impact.
10. Whilst the British Standard (BS 5837:2012 Trees in relation to design, demolition and construction - recommendations) does indicate that new permanent hard surfacing should not exceed 20% of any existing unsurfaced ground within the RPA, to prevent damage to trees, the default position is that unless there is an overriding justification, structures should be located outside the RPAs of trees. Whilst I appreciate that given the proximity of the trees to the site, it cannot be developed without incursion into the RPAs, no such

justification as to why there is an overriding need to develop this site has been put to me.

11. Moreover, I note that the Council can currently demonstrate a five year housing land supply, and the amount of new housing developments in the village that have already been built or are committed already exceeds the approximate limit for the village set out in Policy CS.16 of the CS. As such, the limited contribution the proposal would make to the housing supply in the village or the wider district, does not provide an overriding justification for the proposal either.
12. The Council have highlighted that this species of tree is considered endangered and this has not been disputed by the appellant. In the light of this, and the significant contribution these trees make to the visual amenity of the area, I consider significant weight should be given to their protection. Consequently, and notwithstanding the various measures proposed to minimise the impact of the development, in the absence of any clear justification, I see no reason why it is necessary to develop the site.
13. Therefore, in requiring unnecessary development within the root protection area of protected trees, I consider that the proposed development would adversely affect the prospects for retaining protected trees. As a result, it would be contrary to Policy CS.5 of the CS which, amongst other things, seeks to restrict the loss of trees that have a high amenity value.

Other Matters

14. My attention has been drawn to the fact that a previous appeal for three houses on this site was dismissed¹. However, the evidence submitted indicates that the layout of the previous scheme was very different to that before me, as such it does not represent a direct parallel. I have in any case determined the appeal on its own merits.

Conclusion

15. Although I have found that the proposal would not unacceptably harm the character and appearance of the area, it would adversely affect the prospects for retaining protected trees. For this reason, I consider the appeal should be dismissed.

Alison Partington

INSPECTOR

¹ Appeal Reference APP/J3720/W/16/3156202