



Appeal Decision

Site visit made on 5 September 2019

by David Wyborn BSc(Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2019

Appeal Ref: APP/F0114/W/19/3230454

Woodside, Warminster Road, Bathampton, Bath BA2 6XL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Ashford Homes (SW) Ltd against the decision of Bath & North East Somerset Council.
 - The application Ref 19/01373/VAR, dated 27 March 2019, was refused by notice dated 24 May 2019.
 - The application sought planning permission for the demolition of an existing garage and the erection of two dwellings, garages and associated works without complying with a condition attached to planning permission Ref 16/0351/FUL, dated 26 May 2017.
 - The condition in dispute is No18 which states that: the development/works hereby permitted shall only be implemented in accordance with the plans as set out in the plans list below: 3962-109 W Proposed Site Plan, 3962 3 135, D Proposed Garage 2 Plans and Elevations, 3962 3 132 F Proposed House (East) East and West Elevations, 3962 3 133 E Proposed House (West) East and West Elevations, 3962 3 134 E Proposed House (East & West) South and North Elevations, 3962 3 140 E Location Plan, 3962 3 143 Proposed Vehicular Tree Root Protection Bridge, 3962 - 108 F Proposed House (East) Floor and Roof Plans, 3962 - 112 E Proposed House (West) Floor and Roof Plan.
 - The reason given for the condition is: To define the terms and extent of the permission.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. At my site visit I noted that the works to the drive in front of the central dwelling appeared to have taken place in accordance with the proposed plans the subject of this appeal.

Main Issue

3. The main issue is whether the proposed development would be acceptable in relation to the health and longevity of the Copper Beech tree.

Reasons

4. Planning permission has been granted for two dwellings either side of the existing property. The land slopes down from the central house towards a sizeable Copper Beech tree which is the subject of a Tree Preservation Order. The tree is an attractive specimen which makes a valuable contribution to the

character and appearance of the area and helps soften the appearance of the new development within the street scene.

5. The land in front of the central house is within the Root Protection Area (RPA) of the Copper Beech. To provide vehicular access to the house on the eastern side of the site, across the sloping land in front of the central house, the approved plans show a bridge constructed from timber and set on screw piles.
6. The appellant indicates that more than 12 screw piles would now be required and that the piles would need to be of greater diameter than envisaged at the planning stage to provide a significant engineered structure to allow access for deliveries, removal vans and emergency vehicles. It is said that the insertion of the screw piles will damage tree roots and that the roots are unlikely to recover and could well die, causing long term harm to the health of the tree.
7. I note this updated information on the support necessary for the bridge and the installation of the screw piles is likely to have some effect on the root system of the tree within the RPA. However, I consider that this impact could be minimised with the installation of the piles under careful arboricultural practice. I also note that the details of the bridge itself to be constructed has been approved under plan 3962 3 143 (Proposed Vehicular Tree Root Protection Bridge). Compaction of the root system by piling and other equipment during installation could be avoided by the use of appropriate ground protection.
8. The plans show that some of the land would be excavated to accommodate the bridge structure and this would also potentially cause some harm to the tree from these works within the RPA. However, with good practice the effect of all these works could be minimised and, in the longer term, a benefit of this bridge approach is that there would be limited area of compaction within this part of the RPA.
9. The revised proposal shows an alternative system with a series of tiered cellwebs across this area. The cells would be filled with aggregate and block paving would cover the top surface. The plans show the bank would be finished with grass and that there would not be any meaningful excavation works.
10. The evidence indicates that the cellweb would cover 11% of the RPA and not exceed the 20% recommendation for new permanent hard surfacing within a RPA. Furthermore, the evidence indicates that the cellweb system is designed to dissipate loads over a wide area and provides a no-dig solution which is said to be recommended by many local planning authorities.
11. I have also had regard to the case studies that have been brought to my attention where examples of the cellweb system have been implemented. I attach these examples moderate weight in my considerations as all situations will depend on the individual circumstances, including the ground conditions as well as the type, age and condition of the tree in question. Furthermore, any impacts on trees may take some years to become evident.
12. In this case, notwithstanding the evidence that the cellweb system is designed to dissipate the loading, the tiered structure would still, in my view, provide a considerable weight from the aggregate and paving over a section of the RPA. While the access to the dwelling over the drive is likely to be lightly trafficked, I consider that the weight from the proposed structure has the potential to lead

to the compaction of the soil within a section of the RPA and therefore lead to some harm to the Copper Beech in the longer term.

13. The works proposed by either approach would take place within a meaningful area of the RPA where the protection of the roots of the Copper Beech and the soil structure should be treated as a priority. Having regard to all the submitted technical arboricultural advice, both approaches to providing vehicular access to the dwelling on the eastern side of the site would have the potential to harm the health and longevity of the Copper Beech.
14. Taking all these matters into account, I consider that the bridge option during the installation period has the potential to cause greater harm to the root system of the Copper Beech than the cellweb proposal, mainly because of the piling and the changes in ground level. However, the potential harm to the tree resulting from the installation of the bridge could be minimised by good arboricultural practice. In the longer term, accepting that the bridge would be installed in line with good practice, I consider that the cellweb approach has the potential to be more harmful to the tree than the bridge because of the likely compaction resulting from the weight of this permanent structure within part of the RPA.
15. After weighing all these various matters, and based on the information and evidence before me, I consider that the least harmful approach would result from the bridge proposal rather than the cellweb proposal in the particular circumstances of this case. It follows that I am not satisfied that the appeal proposal is an acceptable alternative.
16. In the light of the above analysis, I conclude that the development would not be acceptable in relation to the health and longevity of the Copper Beech tree and therefore would conflict with Policy NE6 of the Bath and North East Somerset Council Placemaking Plan (adopted July 2017) which seeks, amongst other things, that development avoids any adverse impact on trees of amenity value.

Conclusion

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

David Wyborn

INSPECTOR