



Appeal Decisions

Hearing Held on 6 August 2019

Site visit made on 6 August 2019

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th October 2019

Appeal A Ref: APP/W4705/W/18/3215045 Arden, Gilstead Lane, Gilstead, Bingley BD16 3LN

- 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 and Mrs D M Regan against the decision of City of Bradford Metropolitan District Council.
 - The application Ref: 17/06370/FUL, dated 13 November 2017, was refused by notice dated 30 April 2018.
 - The development proposed is construction of new four bedroom detached dwelling with detached car port, driveways and landscaping.
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Appeal B Ref: APP/W4705/W/19/3230049 Arden, Gilstead Lane, Gilstead, Bingley BD16 3LN

- 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 and Mrs D M Regan against the decision of the City of Bradford Metropolitan District Council.
 - The application Ref: 18/04964/FUL, dated 30 October 2018, was refused by notice dated 13 March 2019.
 - The development proposed is construction of new four bedroom detached dwelling with detached car port, driveways and landscaping. Construction of linked garage extension to existing dwelling.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Procedural matter

3. As set out above there are two appeals on this site. They differ only in so far as the proposal that forms the subject of Appeal B also includes a proposal for the construction of a garage extension linked to the existing dwelling. The Council's reasons for refusal are essentially similar for both applications although in the case of Appeal B there are additional reasons for refusal relating to the cumulative effect of the proposals and the effect of the proposed garage on a protected tree in the garden of a neighbouring property. I have considered

each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

Application for costs

4. At the hearing an application for an award of costs was made by Mr and Mrs D M Regan against the City of Bradford Metropolitan District Council. This is the subject of a separate decision.

Main Issues

5. The main issues in these appeals are:

Appeal A

- The effect of the proposed development on the character and appearance of the area.

Appeal B

- The effect of the proposed development on the character and appearance of the area; and
- The effect of the proposed development on the protected trees adjacent to the appeal site.

Reasons

Character and appearance

6. The section of Gilstead Lane where the appeal site is located is a quiet, residential street forming part of a wider residential area bordering open countryside to the east and south. It is primarily composed of detached dwellings of a range of ages and styles. Large, mature trees within the gardens of the properties overhang the carriageway on one or both sides for most of the length of its final section to the junction with Sheriff Lane, which at this point is a narrow country lane with a poorly maintained surface. Further west towards the junction with Warren Lane it is wider and more open as it transitions from being a residential street to a distributor road and the building types become more varied. With the exception of three dwellings at the far end of Gilstead Lane, two of which are built hard up against the carriageway edge and the third with only a shallow front garden area, the eastern section of the street is characterised by substantial dwellings set in large plots, well separated from their neighbours, and generally set back from the highway. Architecturally the east end of Gilstead Lane is quite diverse, with buildings of a range of ages and different styles, however, due to its built form and the presence of a large number of established trees it has a spacious and sylvan appearance.
7. I note that the Council consider that the proposals would conform to surrounding uses, make a more efficient use of the site and make a contribution to local housing need. I also note that the Council accept that the principle of the development satisfies sustainability objectives, representing an appropriate use of an unallocated site within the limits of the built up settlement and with good access to existing facilities.

8. Nevertheless, whilst I recognise that there have been subdivisions of the original large plots, I saw on my site visit that, particularly on the section of Gilstead Lane where the appeal site is located, where recent new dwellings have been inserted into the original building plots that these are either to the rear of the original houses or on land that formed side gardens to existing or original buildings. This has maintained the character and visual appearance of the street.
9. Both of the appeal proposals at Arden would introduce a new dwelling and ancillary structures in front of the existing house. From the appellant's submitted street scene drawing, although the proposed new dwelling would be lower than the neighbouring properties at Briar Nook and Laurel Cottage it would, as a result of its position at the front of the site, nonetheless, be very visible as a new addition to the street scene. In addition, the proximity of the new dwelling to Laurel Cottage to the east would increase the visual extent of built development and reduce the openness and spaciousness which is characteristic of the street. Whilst there is an existing garage building in a similar location to the proposed new building, this is low and not readily visible from outside the site. The proposed new dwelling would be significantly higher and more prominent in street scene.
10. I also saw during my site visit that the majority of houses in the street present their principal, entrance, façade to the highway, whereas the appeal proposal would present effectively its side and rear elevations. Although it is proposed that the new dwelling would be finished in stone and slate, which are common materials in the area, the proposals in both appeals would be inconsistent with both the prevailing built form and the approach that has previously been taken to inserting new dwellings into the existing built fabric. Taken together with the reduction in openness, this would be harmful to the character and appearance of the area.
11. I have noted the appellant's point that in 2010 planning permission was granted for a garage and amenity extension that added to the existing garage structure. This scheme was not implemented. Whilst I have some details of the scheme, there is no information in the submitted details regarding the height of this proposed extension that would provide a comparison with the appeal proposals. From the drawings that I have, this addition was a single storey structure with some accommodation within the roof space and would have been lower, with significantly less massing at its upper level. This proposal was also granted planning permission under a different policy regime that has since been superseded by the National Planning Policy Framework (the Framework) and the Local Plan for the Bradford District Core Strategy Development Plan Document (the Core Strategy) adopted in 2017. Consequently, little weight can now be given to this previous permission.
12. It was also suggested that the proposal was conceived to appear as a smaller "gate lodge" type structure. However, this approach is not typical of houses in the area nor, due to its size, a four bedroom, two storey building, is the proposed dwelling reflective of typical gate lodge buildings.
13. In respect of Appeal B, this introduces an additional element into the proposal in the form of a garage extension to the front of Arden. The attached garage would be a large structure with storage space in roof and connected to the main house by a glazed lobby. Architecturally this would be very different from

Arden being constructed in timber with timber siding walls. This, in combination with a large roof in comparison to the storey height to accommodate storage space, would appear as very dominant feature on the front of the existing building. The proposed garage would be seen in conjunction with the proposed car port associated with the new dwelling. However, despite having some visual similarities it would be larger and taller, with a larger roof in proportion to the overall height, that would be at a different pitch to that of the car port. Whilst the other car ports in both the appeal scheme and the previously approved development would be timber framed with timber cladding gables, they would not all be seen together and so would provide little in the way of visual unity. The introduction of an additional substantial structure in front of the original house would further erode the openness of the frontage and the spacious character of the street.

14. My attention has been drawn to a several nearby developments within garden land at 125-129 Gilstead Lane, Semmering and Littlegarth on Sheriff Lane, number 7 Sheriff Lane and at 132 Otley Road. I was able to visit these sites during and following the hearing site visit. Whilst all of these schemes appear to be development of garden land, I do not have the full details of these schemes, the policies which were in place at the time, or the circumstances that led to these being accepted, and so cannot be certain that those circumstances are analogous to the schemes that are before me.
15. I saw that the sites at 132 Otley Road and 7 Sheriff Lane are within a different context, being located in areas that are more densely built up and the plot sizes occupied by the surrounding houses are generally smaller. The site at Semmering appears to be a complete redevelopment of a site previously occupied by a dwelling demolished to facilitate the development and consequently is not directly comparable to the appeal schemes. At 125-129 Gilstead Lane, whilst this is development of a garden area, it appeared from the site visit that this was to the side of the original house and the new dwellings formed a logical visual extension to the streetscene. In addition Gilstead Lane has a different character at this point being wider, more open with less tree cover, and having generally smaller plot sizes. I saw that the dwelling in the course of construction adjacent to Littlegarth on Sheriff Lane is of a considerable size and within what appears to have previously been a garden. This site is on the very edge of the settlement and as both the new dwelling and the donor property Littlegarth face onto Sheriff Lane, there is less built context and a visual coherence to the layout. I also observed that there were trees on the frontage of this site, which although in proximity to the building, also serve to provide a degree of screening to it.
16. I have had regard to the Appellant's point in respect of the proportion of the curtilage that would be developed at Arden in comparison to other local sites where development within the curtilage has occurred. I accept the development proposed by the appeal schemes would result in a lower proportion of the curtilage being developed, however, the appeal schemes would have a different visual effect by inserting a building in front of the existing house. Whilst the density of development is a factor in determining the visual effect, it has to be considered in conjunction with the external appearance and disposition of the development.

17. Whilst I accept that there are other nearby examples of developments within garden areas, from what I saw, these are not directly comparable to the appeal scheme and little weight can be given to them in determining the appeals.
18. The eastern end of Gilstead Lane, where the appeal site is located, is bounded by large trees in private gardens adjoining the highway that overhang the carriageway, particularly in the vicinity of the appeal building. In addition, there are well established trees further within the garden areas and along Sheriff Lane, as well as a group of mature trees adjacent to the car park of The Glen public house. This gives the eastern end of Gilstead Lane the appearance of substantial dwellings on large plots in a wooded setting. A slight narrowing of the width of the carriageway and the presence of high boundary walls on the frontages of many of the properties, reduces the visibility of the dwellings and increases the visual prominence and importance of the trees within the street scene.
19. As part of a previously approved proposal for the construction of two new houses to the rear of Arden and the provision of a new access drive, a replacement tree planting scheme has been approved by the Council to compensate for the loss of amongst others, three trees adjacent to the existing front boundary wall, two of which are covered by a Tree Preservation Order, and a group of trees further into the site that would be lost to accommodate the new access and driveway from Gilstead Lane. On the part of the broader site that is now the subject of these appeals this provided for the planting of a Sessile Oak and two Irish Yew trees.
20. Although the appellants' statement of case sets out that the approved planting scheme can be fully implemented, it was agreed at the hearing that the proposed developments would require alteration to the approved replacement tree planting scheme as the Irish Yew trees are now proposed to be relocated to the south of their approved position to accommodate the proposed car port for the new dwelling. The Council has not raised any particular objection to this amendment. The appellants are proposing that the Sessile Oak tree would be retained in its original proposed location but, in order to accommodate the proposed new dwelling, it is now proposed that this tree be planted using a root containment system to prevent conflict between the tree roots and the new dwelling.
21. It is not disputed that the use of a root confinement system for the replacement Sessile Oak tree would result in the tree ultimately not growing as large as a tree without the root confinement system. At the hearing the appellant advised that the ultimate size would be in the region of 12 to 15 metres high with an approximately 4 metre crown spread as opposed to approximately 17-22 metres high for an unconstrained tree.
22. There is no evidence before me that would indicate that a root confinement system for the Sessile Oak was part of the original replacement tree planting scheme and, consequently, I would accept the Council's point that this scheme was predicated on the basis of the final achievable height and canopy spread of the Sessile Oak tree, unconfined by artificial means.
23. The trees that are to be removed to facilitate the provision of the new access are large and well established. As such they are a significant component of the visual appearance of the street. Whilst I am satisfied that the proposed Sessile Oak within a root confinement system would be viable in the long term, I do

- not consider that the reduced overall final size of that tree, as a result of the use of root confinement, combined with the Irish Yew trees being located further away from the front boundary of the site, would sufficiently compensate for the visual effect of the loss of three existing large frontage trees. This would be harmful to the character and appearance of this part of Gilstead Lane and would not comply with the requirements of Core Strategy EN5 which seeks to preserve and enhance the contribution that trees make to the character of the district.
24. Whilst other tree species have been suggested, significant alterations to the previously approved replacement planting scheme are not before me for consideration as this planting scheme relates to a proposal which is not the subject of either appeal. In any event, the requirement to incorporate a root confinement system would similarly affect the ultimate size of any tree planted in this position.
25. Drawing these threads together, the built elements of the appeal proposals would, as a result of their location, prominence, inconsistency with the existing built form and erosion of the spacious character of this part of Gilstead Lane, be harmful to the character and appearance of the area. This would be compounded by the reduced visual effect of the replacement trees on the site frontage that would result from the necessity to relocate two further into the site to accommodate the proposed car port and the use a root containment system to accommodate the proposed new dwelling.
26. I therefore conclude that the proposed development in both schemes would be harmful to the character and appearance of the area. It would not comply with the relevant requirements of Policies SC9, DS1, DS3 and EN5 of the Core Strategy which expect new development to be of a high standard of design that reflects its context, creates a strong sense of place and attractive streetscapes and spaces, and preserve and enhance the contribution that trees make to the character of the district. The reasons for refusal also refer to Core Strategy Policy DC5 which sets out several criteria that seek to ensure the creation of safe and inclusive places. There is no evidence that would indicate that the proposal conflicts with this policy, however, this does not alter my conclusion with regard to the other policies.

Effect on the protected tree

27. It was confirmed at the hearing that the proposed garage extension to Arden would be located wholly within the root protection area of a Birch tree that is within the garden of a neighbouring house and situated close to the common boundary. Due to the size of the tree, parts of the crown overhang the boundary and would be within the area that would be occupied by the roof of the proposed garage extension. In order to accommodate this, it is proposed to prune the tree to raise the east quadrant of the crown. Whilst the Arboricultural Impact Assessment submitted with the proposal that forms the subject of Appeal B does not include the precise details of the pruning works that would be required, during the site visit I was able to see the tree in question and a number of small, lower, branches that would need to be removed were identified. The pruning works would alter the shape of the crown of the tree, nonetheless from what I heard at the hearing and saw during the site visit, I am satisfied that these works would not fundamentally affect the overall appearance of the tree and there is no evidence that would

indicate that, of itself, the pruning work would be detrimental to the future health, or to the long term survival of the tree.

28. Turning to the effect of the proposed garage extension on the root system of the Beech tree, it is proposed that this be constructed on a piled raft foundation with the floor slab effectively suspended above the existing ground level. Rainwater drainage would be directed to a soakaway type system below the floor slab. No technical details of the construction method or drainage were provided in the Arboricultural Impact Assessment submitted with the planning application or in the appellant's appeal submissions. At the hearing the appellants' arboricultural consultant set out that the position of the proposed piling and soakaways in relation to the root system would be determined by exposing the roots with an "air spade" (a compressed air device that causes little or no damage to tree roots). It was also explained at the hearing that the soakaway installations would be smaller than the type used for general surface water disposal. Whilst I note the Council's point that the proposals did not include an engineer's report on the foundation design or agreement in principle from the Building Control Authority, the appellant's explanation at the hearing was not challenged.
29. On this basis I am satisfied that it is possible to design the base structure and foundations of the proposed garage in such a manner that it would not result in compaction of the soil within the root protection area of the Beech tree and would allow for sufficient water to continue to be provided to the root system of the tree. This would necessarily be subject to a detailed design specification, however, this could be required by a suitably worded planning condition.
30. I therefore conclude that the proposal in Appeal B would not cause harm to the protected tree adjacent to the appeal site. It would comply with the relevant requirements of Policy EN5 of the Core Strategy which seeks to ensure that trees that contribute to the amenity of the built up areas are protected.

Other matters

31. I have regard to the letters of support for the proposal that forms the subject of Appeal B from a local resident and two local councillors. The matters set out in these have been addressed above and none of these have led me to a different conclusion.
32. It is common ground between the parties that the principle of the development in the area is acceptable, that the proposed drainage arrangements are acceptable and that the proposal would not have any significant ecological implications. Additionally, it is not in dispute that the proposals would have no adverse effect on the Saltire World Heritage Site; the living conditions of the occupiers of neighbouring dwellings; or on highway safety. From what I have read, the discussions at the hearing, and from what I saw when I visited the site, I have no reason to conclude otherwise.
33. It is also common ground that the Council cannot demonstrate a deliverable five year housing land supply. In these circumstances the proposals must be considered in the context of the presumption in favour of sustainable development set out in Paragraph 11 of the Framework.
34. It is not argued that any of the policies cited in the reasons for refusal are out of date. The Core Strategy was adopted after the original publication of the

Framework in 2012 and would have been prepared in the context of this. The Core Strategy therefore sets out what constitutes sustainable development in the Council's area. Although the Framework was updated in 2018 and again early in 2019, the amendments to it do not fundamentally affect the policies in the Core Strategy that are most relevant to this appeal and these are still consistent with the Framework.

35. The only benefit identified from the appeal proposals is the increase in housing supply by one house. There may also be some economic benefits arising from investment in, and the construction of, the dwelling. The Framework seeks to increase the supply of housing and there is no doubt that the appeal proposal would do this. However, the effect of a single dwelling on the supply of housing is small and, likewise, any associated economic benefits would also be modest. I have no substantive evidence before me in respect of housing supply, projected future housing delivery or the size, type, and tenure of housing which may be required. Within this context, I can only give moderate weight to the potential increase in housing supply. However, the proposal would conflict with the requirements of relevant development plan policies in the Core Strategy and as a result would cause harm to the character and appearance of the area. Due to the nature of the proposals, the construction of a new permanent building, this harm would be significant and enduring. This is an important matter and, therefore, substantial weight has to be given to this conflict with the development plan policies and the adverse impacts that would result from this notwithstanding that the proposal may comply with other policies in the plan. The adverse impacts of granting planning permission would therefore significantly and demonstrably outweigh the benefits.
36. Section 38(6) of the of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications and appeals must be made in accordance with the development plan unless material considerations indicate otherwise.
37. I have found that the proposed development in both appeals conflicts with the relevant requirements of Core Strategy Policies SC9, DS1, DS3 and EN5. Notwithstanding that the locality may be suitable for accommodating new residential development and that the appeal site could be developed without causing harm to neighbouring occupiers, highway safety or ecological interests, the appeal proposals would cause harm to the character and appearance of the area that would be significant and lasting. Whilst some aspects of the proposal may be acceptable, once done, this harm could not be undone, and of itself is sufficient to warrant refusing planning permission. The harm I have found significantly outweighs the modest benefits of the proposal in terms of providing an additional dwelling in the housing stock.
38. Consequently, no material considerations have been identified that would indicate that a decision should be made other than in accordance with the development plan, or that would overcome the conflict with its policies.

Conclusion

39. For the above reasons, I conclude that both appeals should be dismissed.

John Dowsett

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr M Krassowski	Walsingham Planning
Mr D M Regan	Appellant
Mr D Waugh	Dickinson Waugh Architecture
Ms V Harper	Walsingham Planning
Dr D O'Callaghan	Dealga's Tree Consultancy
Mrs K Regan	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Hutchinson	Area Planning Manager Bradford MDC
Ms E McLaughlin	Arboricultural Officer Bradford MDC

INTERESTED PERSONS:

Councillor J Pennington	Bradford MDC
Ms Z Reynolds	Walsingham Planning
Mr M Metcalfe	Interested person

DOCUMENTS SUBMITTED AT THE HEARING

Agreed Statement of Common Ground

Enlarged Photographs and Diagrams

Appellant's Costs Application