



Appeal Decision

Site visit made on 1 October 2019

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2019

Appeal Ref: APP/D0121/W/19/3232690

Land adjoining Broadlands, Ridgeway Road, Long Ashton, North Somerset BS41 9ET

- 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 L Williams against the decision of North Somerset Council.
 - The application Ref 18/P/3358/FUL, dated 29 May 2018, was refused by notice dated 7 February 2019.
 - The development proposed is erection of two detached dwellinghouse with detached garages and associated parking, hard/soft landscaping, drainage and infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the site address from the planning application form although I note it is expressed differently on other documents.

Main Issue

3. The main issue raised in respect of this appeal is the effect of the proposed development upon a line of lime trees protected by a Tree Preservation Order (TPO) and the character and biodiversity value of the area.

Reasons

4. Outline planning permission has been granted for three dwellings at the appeal site. This subsequent proposal alternatively seeks permission for two dwellings at the site. This proposal differs to that of the previous proposal in that the driveway access for one of the proposed dwellings would be between two TPO'd lime trees. The driveway would traverse the root protection area (RPA) of these trees. The trees form part of an avenue of lime trees along the existing access drive that are of high amenity value. The Council advises that, to its knowledge, the only other avenue of limes with such a high amenity value in North Somerset is found within the grounds of Tyntesfield, Wraxall, a National Trust property.
5. I note the Council has expressed an alternative preference for the location for the access, but the appellant contends that the proposed access should be considered on its own merits and whether it would harm the protected trees. Whilst I acknowledge that the lime trees form an avenue to an existing access,

- the proposal would create a new access between trees where none currently exists.
6. A RootBridge system is proposed to be installed from the existing access drive over the RPA. This is intended to protect the tree roots from compaction. The system is designed as a no-dig, no soil-compaction, no concrete solution. The manufacturer's details indicate that the RootBridge system would be constructed from steel and aluminium and that can be paved over or left as exposed mesh. It would cover an area of 15m² and would be held in place by 30 x 100mm manually installed ground screws. I have been referred to a case study extract that illustrates an example of a RootBridge system as well as Rootbridge Green Grid Systems. The appellant advises that the system is accepted as standard in the industry and has been used for some time.
 7. The Council's Tree Officer raises concern that excavations would be required for the supporting posts within the RPA, and that even though the posts could be spot-fixed, this would still require investigation with an airspade. It is advised that airspace investigations are known to cause significant damages to roots in many cases removing their protective bark leaving them exposed to infestation from decay pathogens. In addition, concern is also raised to the potential need to crown lift to enable access delivery and other large vehicles without damaging the trees. Although the Council raise concerns relating to marrying levels of the existing driveway height to the proposed driveway and edging of the drive, the appellant advises that the levels would be the same as the access road.
 8. The Council anticipates that the trees will continue to grow for the next 100 to 150 years if adequately protected and advises that with growth the roots would encroach on the RootBridge which will inevitably cause them to deform. Contrary to this the applicant considers that given the height and maturity of the trees it is unlikely that there will be substantial future growth of the lateral roots to an extent that would disturb the ground screws, rather the roots would grow around them.
 9. The Council points out that trees, especially mature trees, are vulnerable to changes in their environment and, in particular, their rooting environment and routinely suffer from development as well as post development pressure. Despite the assurances of the appellant the proposal will involve tampering with the rooting environment of two trees. Whilst the appellant considers the impact on lateral anchoring roots would be unlikely, I cannot be certain that root damage would not occur even if care is taken inserting ground screws and a clerk of works is appointed to oversee works. Furthermore, I cannot be certain that the RootBridge would provide adequate protection for the tree roots in the long-term if indeed the trees grow as the Council predicts.
 10. Avenues of lime trees, such as this one, are clearly relatively rare. The TPO that is in place affords the trees protection, no doubt in recognition of their rarity and amenity value. This makes it all the more important that the lime trees are protected from harm to ensure their longevity is not undermined. The premature loss of any of the trees would have a negative and significantly visual effect on the group and their appearance as an avenue of trees, as well as undermine their biodiversity value as part of a group of trees.
 11. For the above reasons I cannot be certain that the two lime trees would not be harmed as a result of the proposed development and/or that their long-term

protection would be sufficiently secured. The proposed development, therefore, has a significant potential to negatively impact upon these trees and have a detrimental impact on their wellbeing in the long-term that could lead to pressure to remove the trees in the future. This would be an erosion of the statutory protection placed upon the trees by the serving of the TPO. As a consequence, the proposal should be resisted.

12. I have given consideration to the appellant's suggestion to ensure an appropriate finishing material be secured by condition. However, such a condition would not overcome my concerns above with regard to the acceptability of the proposed RootBridge system. Both parties have also referred to British Standard BS5837:2012. Whilst I note the appellant's point that the proposal would not constitute excavation, I have been directed to the Standard also requiring permanent hard surfacing within a RPA to be achieved without significant adverse impact on the trees to be retained.
13. For these reasons, I conclude that the proposed development would have a harmful effect upon the line of lime trees protected by TPO and the character and biodiversity value of the area. The proposal would, therefore, conflict with Policies CS4, CS5, CS9 and CS12 of the North Somerset Council Core Strategy, Policies DM8, DM9, DM10 and DM32 of the North Somerset Council Development Management Policies Sites and Policies Plan (Part 1), Policy ENV2 of the Long Ashton Neighbourhood Development Plan and the North Somerset 'Biodiversity and Trees' Supplementary Planning Document (SPD). These policies and SPD seek, amongst other matters, development to protect the character, distinctiveness, diversity and quality of North Somerset's landscapes and townscapes and to maintain its biodiversity. Policy ENV2 of the Neighbourhood Development Plan states that "*Development that damages or results in the loss of ancient trees or trees of good arboricultural and amenity value will not normally be permitted. Development proposals must be designed to retain trees and ancient trees or trees of good arboricultural and amenity value*".

Other Matters

14. The Council has raised concerns in its statement of case relating to the visual appearance of the RootBridge system, though this matter is not specifically referred to in the Council's decision notice. This issue has not been cited by the Council as a reason for refusing planning permission and I am dismissing the appeal for other reasons. In view of this there is no need to address this matter further.
15. Both parties have referred to an application for a certificate of lawfulness (proposed) in respect of the access through the trees but I have been advised that application was refused by the Council. Therefore, I cannot attribute any weight to any fallback that this might have provided as that application has been refused.

Conclusions

16. Having regard to the above findings, the appeal should be dismissed.

Nicola Davies

INSPECTOR