



Appeal Decision

Site visit made on 19 November 2019

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal Ref: APP/F2415/W/19/3237172

Cotesbrook, Hill Drive, Lutterworth LE17 4BJ

- 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 J Macfarlane against the decision of Harborough District Council.
 - The application Ref 19/00511/FUL, dated 29 March 2019, was refused by notice dated 23 May 2019.
 - The development proposed is erection of a dwelling and associated works.
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Decision

1. The appeal is dismissed.

Main Issues

2. Having regard to the evidence before me, the main issues are the effect of the proposal on the character and appearance of the area, with particular regard to trees; and the effect on the living conditions of prospective occupants.

Reasons

3. The proposed dwelling would occupy an area to the side of an existing dwelling, Cotesbrook, near the entrance to Hill Drive, a private road leading from the A426 as it enters Lutterworth on its southern side. The entrance to Hill Drive and the setting of the appeal site are characterised by mature trees within and around gardens and lining the road. To the rear of the appeal site are various tall, mature trees which are subject to a Tree Preservation Order. These trees, and land immediately to the side of the appeal site, lie within the Lutterworth Conservation Area, though the appeal site does not, nor do two trees identified in the appellant's Tree Survey Report (March 2019) (TSR) as T1 and T2.
4. No objection is raised by the Council to the proposed design of the dwelling, and whilst I saw other dwellings on Hill Drive to be more understated in their design, there is sufficient variety in their form, materials and scale that the proposed dwelling would not harm the prevailing character and appearance. However, the Council's concerns relate to the positioning of the dwelling relative to surrounding trees, and a fear that their proximity and size would be overbearing and would cause overshadowing, restricted light and outlook for future occupants, along with disturbance from falling leaves and other debris. As a result, the Council is concerned there would be pressure from future occupants to undertake pruning or even felling works to the trees which the Council would have difficulty resisting, which would in turn adversely affect the character and appearance of the area.

5. Of the eight trees surveyed which surround the appeal site, the TSR identifies T1 and T2 (both common limes) and T8, a yew tree, as Category A, being high quality trees. Trees T4, T5, T6 and T7, all part of the TPO group to the rear, are identified as Category B, being good to fair in condition. Tree T3 is a semi-mature tree classed at Category C, but said to be in good condition. The trees, six of which are between 12 and 22 metres in height, are significant trees in their own right and as part of the wider spread of trees which includes the TPO group to the rear, but also trees along the length of Hill Drive itself. Both of these groups extend from the prominent line of trees along the A426 road as it enters Lutterworth from the south. I saw on site that, collectively, these trees make a significant, positive contribution to the established character of the area, giving Hill Drive a rural, wooded appearance with dwellings interspersed between the trees and other planting.
6. The appeal scheme does not propose the removal of any trees, though the TSR indicates T1 and T8 would need to be pruned to facilitate construction. The TSR also shows that there would be incursion into the root protection areas (RPAs) of T2 to construct the proposed entrance steps to the dwelling, whilst the proposed parking areas would be located over the RPA and below the crown spread of T1. The Council's Forestry Officer, in commenting on a preceding application, considered that the proposal could 'probably be constructed carefully without adversely affecting the nearby trees', subject to particular alternative methods of construction set out in the TSR. The Council has not raised objection to these works. Therefore, I am satisfied that the long term health of the trees would not be at risk from construction, subject to proposed tree protection measures proposed being implemented. This could be addressed through a suitably worded planning condition.
7. The dwelling would be located close to the rear boundary of the site and the protected group of trees in particular. Though the footprint of the building is shown to be just outside the identified RPAs of trees T3 to T8, the recorded crown spread of T6 would overhang the rear corner of the dwelling. The Forestry Officer, though not opposed to the construction works, raised a point about shading and referred to Paragraph 5.1.4 of the TSR where the author himself refers to shading of the new dwelling by the adjacent off-site trees; and to potential safety concerns 'given that those to the north will be especially overbearing in relation to the proposed dwelling.' The author concludes that this may result in demands to have the trees pruned, or even removed.
8. The plans and my site visit make it clear that the proposal would be closely surrounded by tall, mature trees on three sides, with the existing dwelling of Cotesbrook on the fourth. Beyond those surveyed trees closest to the proposed dwelling, I saw there to be several more trees of a similar size between the site and the main road, which together have a significant enclosing effect in physical terms, but also in terms of sunlight and daylight penetration. Given these trees are located towards the east and south-east of the appeal site, they would have an effect on the amount and quality of light reaching the proposed dwelling from sunrise through a large portion of the day. I also saw that the existing dwelling, Cotesbrook, is not as close to the trees to the rear and benefits from a more spacious plot to the front and side, with trees set further from the windows of the dwelling.
9. The appellant points to the bespoke design of the dwelling, with larger window openings to the southern elevation and a split level design intended to

maximise light into the building. The main kitchen/living area would be served by the large southern window and several other smaller windows. The master bedroom would also face to the south; however, the second and third bedrooms would be north facing, within only a few metres of the tall trees to the rear which stand just over the boundary but overhang into the site.

10. Based on my observations, the outlook to the rear windows, and light received, would be significantly constrained by the presence of the protected trees behind, and their size and proximity, close enough to overhang in some instances, would create a palpable sense of overbearing and enclosure. Moreover, the external amenity areas located to the rear and side would be limited in size and would be in shade for a significant proportion of the day due to the surrounding trees and the dwelling itself.
11. I do not doubt the appellant has sought to design the dwelling to maximise light; however, it is evident that this is necessitated by the significant effect the trees have on levels of sunlight and daylight received by the site. The windows to the front elevation would be shaded by T1 and T2, and other trees beyond the site boundaries, for large parts of the day. Indeed, the main bedroom window would be additionally shaded by the overhanging balcony to the upper ground floor. Notwithstanding the interior layout, the size and proximity of the trees means there is likely to be pressure from future occupants to remove these trees in order to improve sunlight and daylight to the windows and external amenity areas.
12. Moreover, the proposed parking area for the dwelling would be located beneath the canopy of tree T1 to the front. Trees shed leaves and branch litter. Indeed, at my site visit, the ground of the appeal site was almost entirely covered by a thick accumulation of leaves and small branches. Such debris often causes inconvenience to residents. High winds can also cause fear that mature trees will fall or shed branches, particularly when close to cars or buildings. There is also the ongoing costs of maintenance, which are evident from the need to prune trees to facilitate construction, and are therefore likely to continue into the future. All of these aspects of living in proximity to trees can cause occupants to seek their removal.
13. The appellant argues that protecting the trees is a prime objective, that there is no intention to remove them and that the Council would retain the ability to control works to protected trees in future. Such intentions may be genuine, and some occupants may welcome such a secluded setting and be prepared to accept the maintenance required, but for others, such preferences are likely to be secondary to safety concerns about falling trees or branches in high winds, or practical concerns with removal of leaves or other debris which may fall in gutters, on parked cars or garden areas from adjacent trees. I cannot discount a future resident seeking to prune or remove trees, which would be difficult for the Council to resist, particularly where matters of safety or property damage are raised. In such an scenario, the loss of trees would result in demonstrable gaps in the tree cover and more open plots which would adversely affect the prevailing wooded character of Hill Drive.
14. For these reasons, I conclude that the proposed dwelling, due to the proximity of mature trees, would create conditions which would harm the living conditions of future occupants. This would result in pressure to remove trees which provide visual amenity value which would in turn harm the character and

appearance of the area. As such, there would be conflict with Policies GD5 and GD8 of the adopted Harborough Local Plan 2011-2031 (April 2019) which require development to respect and, where possible, enhance local landscape and avoid the loss of, or substantial harm to, features of landscape importance; and to achieve a high standard of design which protects and enhances existing landscape features and not have a significant adverse effect on the living conditions of existing and new residents through loss of privacy, overshadowing and overbearing impact.

15. The proposal would also conflict with the design and amenity related aims of Paragraph 127 of the National Planning Policy Framework, and the aim of enhancing the natural and local environment set out at Paragraph 170.
16. The Council also cites conflict with Policy GI5 in its reason for refusal. This policy relates to biodiversity and geodiversity and seeks protection of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees. No harm in any of these respects is alleged specifically by the Council and so I find this policy is not directly relevant to the main issues.

Other Matters

17. The Council did not raise concern with the proposal in terms of flooding, ecology, highway safety or the living conditions of neighbours. I have also had regard to the comments of a neighbouring resident in some of these matters. From all I have seen and read, I have no reason to reach different conclusions on these issues; however, an absence of harm in these respects is a neutral consideration in the planning balance.

Conclusion

18. The proposal would deliver the benefit of an additional dwelling to the housing stock, and economic benefits from construction and future expenditure by occupants in the local area. However, given the small scale of the proposal, such benefits would be very limited, and in some cases, temporary.
19. In my judgement, the benefits of the proposal, taken together, would not amount to material considerations which would outweigh the identified conflicts with the development plan and would not justify a decision being made other than in accordance with the development plan, taken as a whole.
20. For the reasons given, therefore, the appeal is dismissed.

K. Savage

INSPECTOR