



Appeal Decision

Site visit made on 3 December 2019

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 2nd January 2020

Appeal Ref: APP/Z4718/W/19/3237041

Adj 301A Oxford Road, Gomersal, Cleckheaton BD19 4LA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr D Smith against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/62/93471/E, dated 17 October 2018, was refused by notice dated 11 March 2019.
 - The development proposed is a detached dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The site visit procedure was altered from an access required site visit to an unaccompanied site visit as I was able to see all that I needed to from public land.

Main Issues

3. The main issues are:
 - i) The effects of the proposal on the character and appearance of the area; and
 - ii) The relationship with protected trees on the site.

Reasons

Character and appearance

4. The appeal site is an undeveloped area of garden land with mature trees in a prominent location at the junction of Pit Lane and Oxford Road. It is part of the former grounds of 301 Oxford Road, a substantial Victorian property that has been divided into several dwellings with associated private outdoor space. By virtue of its historic and architectural interest, the Victorian building is a non-designated heritage asset that, together with its grounds with mature planting and stone boundary wall, makes a positive contribution to the character and appearance of the area.
5. The site is adjacent to the Gomersal Conservation Area (the CA) which includes the properties on the opposite side of Oxford Road at this point and extends along the road as far as Pollard Hall and its grounds. The CA is notable for its

historic civic buildings and associated residential properties including substantial halls and their grounds, detached dwellings in generous plots and more modest semi-detached and terraced properties. In this context, 301 Oxford Road and its grounds which include the appeal site, its continuous stone boundary wall and mature trees makes a positive contribution to the setting of the CA.

6. The proposal is a detached dwelling with associated parking and garden areas. It would be finished in stone with a blue slate roof and uPVC windows and doors. Part of the boundary wall to Oxford Road would be removed to create a new vehicular access that would sweep round the side of the building beneath the canopy of the mature trees. The dwelling would be constructed partly below ground, and ground levels would be reduced around the building. By virtue of its prominent corner location, it would be visible in its entirety from the surrounding area.
7. The dwelling would be similar in style to dwellings elsewhere in the area. However, it would be markedly dissimilar to the neighbouring properties, most particularly the adjacent Victorian heritage asset with its long front elevation facing the appeal site, conspicuous arched and oculus windows, projecting cross gable features and decorative stonework. In contrast, the proposal would be a contemporary building that would not relate well to the prominent and distinctive historic building.
8. The proposal would be located within the setting of No 301 and sited closer to the road. It would therefore disrupt and obscure the views of the distinctive front elevation of the Victorian property. Consequently, by virtue of its design and close proximity, it would be a visually obtrusive and incongruous feature that would detract from the non-designated heritage asset. It would not make a positive contribution to the townscape and it would not maintain a strong sense of place.
9. Although not in the CA, by virtue of its close proximity and its relationship with the surrounding built environment, the proposal would not be sympathetic to the historic townscape setting of the CA. However, the Council considers that the harm to the CA would be less than substantial in the terms set out in the National Planning Policy Framework (the Framework), and I see no reason to disagree. In this case, the proposal would be a private dwelling and it has not been demonstrated that there would be public benefits that would outweigh the harm to the setting of the CA. Therefore, it would conflict with the Framework.
10. For the reasons set out above, the proposal would result in harm to the character and appearance of the area including the neighbouring non-designated heritage asset and the setting of the CA. It would conflict with the development plan, including Policies PLP24 and PLP35 of the Kirklees Local Plan Strategy and Policies Adopted February 2019 (the LP). These require, among other things, that development respects and enhances the character of the townscape and heritage assets. The proposal would also conflict with policies in the Framework that require development to be sympathetic to local character and the surrounding built environment and to conserve heritage assets.

Protected trees

11. Trees within the appeal site are protected by a Tree Preservation Order (TPO), including a mature beech part way along the boundary with Pit Lane and an

early mature beech near to the junction of Pit Lane and Oxford Road. By virtue of its height, form and location, the mature beech tree is a dominant and conspicuous feature. The Arboricultural report confirms that it is a prominent specimen in good condition and it is of significant amenity value. In this respect, it makes a positive contribution to the street scene and to the wider network of green infrastructure that punctuates and softens the hard built environment and that characterises the wider townscape. While the early mature beech tree is not so individually significant, it nevertheless also makes an important contribution to the verdant and leafy character and appearance of the area.

12. The proposal indicates that both the mature and early mature beech trees would be retained. However, there would be extensive works within their root protection areas (RPAs) including a significant change in ground levels and the construction of vehicular access and parking areas. Although the Arboricultural report includes a tree survey and general design advice, no Arboricultural Impact Assessment (AIA) or method statement has been provided. Therefore, there is no substantive evidence before me to demonstrate that the impacts of the proposal on the protected trees has been assessed or would be acceptable.
13. I appreciate that at least some of the material that would be excavated to facilitate the development is fill material. However, there is little before me in terms of the height of the fill material relative to the original ground levels or its relationship to the protected trees. Therefore, I cannot be certain that the reduction in levels could be achieved without significant disturbance and adverse effects to the root systems of the mature trees.
14. I accept that no-dig construction methods have been found appropriate to construct access roads in the RPAs of trees elsewhere. However, in the absence of an AIA, it has not been demonstrated that such construction methods, particularly in combination with the proposed reduction in ground levels, would be appropriate at this site.
15. The Arboricultural report also emphasizes the need for the shading effect of retained trees to be considered in relation to any proposed buildings. In this respect, the appellant has sought to increase the separation between the dwelling and the mature beech tree and to avoid the creation of habitable room windows in the facing side elevation. Nevertheless, the mature beech would be in close proximity to, and it would be significantly taller than, the dwelling. Consequently, the proposal would result in significant shading to the facing windows, including the rooflights that would serve the study.
16. Furthermore, although there would be a small area of garden between the dwelling and No 301, the majority of the land around the property including the driveway and parking area would be overhung and shaded by the large mature beech tree. As a result, future occupiers would be likely to seek to severely prune or remove the tree due to its potential effects and conflict with the property. Moreover, given the proximity of the early mature beech tree to the proposed access and its low spreading growth form, it seems likely that it would need to be significantly pruned or felled to create the access. Even if the protected trees could be retained within the scheme, the loss or significant pruning of the mature beech trees would result in significant harm to their visual amenity value and to the character and appearance of the area.

17. Therefore, it has not been demonstrated that the proposal would avoid significant harm to or the loss of the protected trees. The proposal would conflict with the development plan, including Policies PLP24 and PLP33 of the LP. These require, among other things, that development should retain valuable or important trees that contribute to public amenity or the distinctiveness of a specific location.

18. Other Matters

19. This is a revised proposal following an earlier refused planning application (ref 2917/92770) for a detached dwelling at this site. I appreciate that the scheme has been amended in an attempt to overcome the concerns of the Council. However, the proposal would nonetheless result in conflict with the development plan.
20. My attention has been drawn to schemes elsewhere in the area that have been granted planning approval. However, in the absence of any details I cannot be certain that any of them is directly comparable to the appeal scheme. Each scheme must in any case be considered on its individual merits.
21. The minimal contribution to the supply of housing from one new dwelling would not be a benefit that would outweigh the harm that I have identified.

Conclusion

22. I have concluded that the proposal would conflict with the development plan and there are no other considerations that outweigh that conflict. For this reason, the appeal should therefore be dismissed.

Sarah Manchester

INSPECTOR