



Appeal Decision

Site visit made on 8 January 2020

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2020

Appeal Ref: APP/U1105/W/19/3235304

Elmcote, Boughmore Road, Sidmouth EX10 8SH

- 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 Lambert against the decision of East Devon District Council.
 - The application Ref 18/1798/FUL, dated 31 July 2018, was refused by notice dated 12 March 2019.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's decision notice refers to several policies in the draft Sid Valley Neighbourhood Plan 2018-2032 (SVNP). However, the Council's appeal statement sets out that the draft SVNP has been superseded by the referendum version. Although policy wording was not changed, that updated version – which subsequently passed at the Sidmouth Neighbourhood Planning Referendum – includes some changes to policy numbers. I have taken this into account in reaching my decision. The appellants also had the opportunity to comment on the Council's appeal statement and the progress of the SVNP during the appeal.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the surrounding area, with particular regard to preserved trees and whether it would preserve or enhance the character or appearance of the Bickwell Valley Conservation Area (CA).

Reasons

4. The appeal site contains a relatively large dwelling designed by R W Sampson, a well-known local architect. Situated within significant grounds of mature landscaping, it is set well back from the highway. There are numerous trees on the site which serve to partially screen the dwelling from the public realm. The trees are preserved and contribute significantly to the verdant and spacious character and appearance of the locality and its Edwardian suburban character. Although the dwelling has been altered – including through the addition of a conservatory, satellite dish and replacement uPVC windows – it remains elegant and well-proportioned, and positively contributes to the surrounding area.

5. There are a range of buildings nearby, including original Sampson designed dwellings reflecting the Arts and Crafts style, and some newer in-fill additions set in a variety of positions and generally in closer proximity to the highway and on smaller plots. Accordingly, the locality contains a range of built form and a relatively varied development pattern. However, the site is located within the Bickwell Valley CA, whose significance stems from, in part, the generally large detached houses set in private, spacious grounds, with trees and soft landscaping predominating and contributing to the sylvan setting of the area.
6. The trees on the site would surround the proposed dwelling on three sides and would cover and extend over a significant proportion of the proposed garden. There are currently some gaps between the trees, more gaps would be opened up with the proposed removal of some trees, such as T48, some tree canopies are relatively high, open and porous, such as T47, and a review for some crown lifting is proposed. Be that as it may, it seems to me that significant parts of the site would be overshadowed and receive limited amounts of natural light for significant parts of the day.
7. The evidence before me, including the appellants' shading analysis (Dwg Refs 04903-Shading Analysis 29.10.2018), indicates that some shading of the dwelling would occur but that the amount of sunlight and natural light reaching habitable rooms would be sufficient on the basis of the proposed situation and existing trees. However, a significant part of the proposed garden area would be beneath tree canopy, and I have little substantive evidence that the garden would, despite its relatively large size, receive acceptable levels of sunlight and natural light. Given the proximity, size and spread of existing trees, it seems to me that much of the garden would experience significant shading throughout much of the day. Some future tree growth should also be expected, and with the exception of T46, this would likely increase shading and reduce the levels of natural light reaching the garden. Furthermore, I observed on site that while the tennis court area is relatively bright and open, the new dwelling would create some additional shading to its rear and sides.
8. Not all parts of the garden would be in shade all of the time. However, the significant presence of retained trees – including large overhanging canopies and the relatively low height of some branches, such as T51 – would mean that the garden as a whole and the dwelling would be dominated and feel enclosed. Leaf litter and debris would also occur throughout the garden.
9. The combined effect of the above means that the quality of the living environment for future occupiers of the development would be limited. Future tree growth could also reduce the quality of the living environment within the dwelling. Accordingly, it seems to me that the inevitable result of this would be that future occupiers would seek to have some of the trees significantly pruned and/or felled in the future. This would substantially reduce the trees' positive contribution to the surrounding area, including the Bickwell Valley CA.
10. In coming to this view, I have taken account of the fact that the current occupiers of Elmcote could seek permission to prune some of the trees irrespective of the proposed development, such as the low hanging branches of T51. However, the extent of future tree works required by future occupiers of the proposed development would be likely to be significantly greater.
11. The proposed dwelling has been sited to avoid incursion into theoretical root protection areas. However, the trial holes to assess root penetration indicate

that some tree roots do extend into the elevated ground where the proposed dwelling would be sited. Given the trial holes were only to a depth of 0.6 metres (as detailed on the Trial Hole Location Plan, Dwg Ref 04903-TLP-2018), it is also likely that further roots may be present at lower depths, closer to the base of the trees situated below the elevated lawn area. This suggests that the construction of the dwelling could have a greater direct effect on the health of trees on the site than currently judged in the appellants' arboricultural details.

12. Some trees would be removed as part of the proposed development. Although they have not been classed in the highest category of tree and may have some structural defects and/or dieback, the Tree Survey does not indicate that they require removal irrespective of the development. There is also little substantive evidence before me which indicates that they will fail in the near future. While the Medlar tree (within the group TG7) and the tulip tree (T48) may not be original and are not as significant or prominent in comparison to some of the other surrounding trees, both are visible from the public realm and their age classes, as assigned by the Tree Survey, indicate that they are not necessarily in the last stages of their lives. These trees contribute positively to the verdant and wooded nature of the site and the character and appearance of the surrounding area, and their loss would be noticeable in the locality. The reference to the potential to replace the Medlar tree with a younger specimen does not lead me to a different conclusion.
13. It has been put to me that there are similarities between this appeal proposal and a development approved on appeal (Ref APP/P1133/W/3213097) for three dwellings with trees in close proximity. However, the particular circumstances of that site and development do not reflect this site and appeal proposal. That development is also in a different district with a different development plan. I have therefore dealt with this appeal on its individual merits.
14. The proposed development would be positioned in front of the existing dwelling and would reduce the size of the existing plot. However, its orientation, layout and location – set back from the highway and away from other properties – would respect that of surrounding built form, the streetscene and the locality's spaciousness and general development pattern. The size and density of the two resulting plots would not appear out of place, and both the existing and new dwelling would be situated within relatively large, private, mature-landscaped grounds. The design and size of the new dwelling would also reflect and respect the appearance and proportions of Elmcote and its association with Sampson, other nearby properties and the area's local distinctiveness in general, while full details of external materials and detailing could be secured by condition.
15. Although the garage would be located towards the front of the site and close to the highway, its low height and proposed sedum roof would mean that it would be relatively unobtrusive. Soft landscaping would provide some screening of it from the public realm. Given the presence and location of other nearby garages, it would also not appear out of place.
16. The existing landscaped garden area is a sizeable and notable feature in the locality, and it appears that this was part of the original design concept for the plot. However, Elmcote is not identified as a designated or non-designated heritage asset, and the sub-division of its plot and subsequent change to its garden layout and setting would not appear out of character in the context of its surroundings, which have changed and evolved over the years – including

through in-fill developments – and since the surrounding area was originally developed. Although the new dwelling would limit views of Elmcote, there would continue to be glimpsed views of it, still set within its mature grounds, from the public realm. Soft landscaping and trees also already screen the existing dwelling from the highway to some extent, and natural growth could further reduce its presence irrespective of the proposed development.

17. I have found that the position, layout, size and appearance of the proposed dwelling and garage would be acceptable and would not harm the intrinsic residential character and appearance of the spacious Edwardian suburb in which it would be located. However, the direct and indirect effects of the proposed development on preserved trees would harm the verdant character and appearance of the locality. Accordingly, the appeal proposal would fail to preserve the character and appearance of the Bickwell Valley CA.
18. In turn, I find that the appeal proposal would, in the words of the National Planning Policy Framework (Framework), result in less than substantial harm to the significance of the designated heritage asset. In such circumstances, the less than substantial harm should be weighed against the public benefits. The development would provide some public benefits including adding to the housing stock in the area. However, the benefits arising from the provision of one additional house would be limited and do not therefore outweigh the great weight given to the conservation of designated heritage assets.
19. For the above reasons, I conclude that the proposed development would harm the character and appearance of the surrounding area, with particular regard to preserved trees and the Bickwell Valley CA. I therefore find that it conflicts with Strategies 6 and 26 and Policies D1, D2, D3, EN9 and EN10 of the East Devon Local Plan 2013 to 2031, and SVNP Policies 1, 6, 7 and 9. Amongst other aspects, these cover development affecting designated heritage assets and require development to: be compatible, respect and preserve or enhance the appearance and character of the area; conserve and incorporate natural landscape features and trees; avoid adverse impact on the environmental quality of the parish; and result in no net loss in the quality of trees. The proposal would also be inconsistent with the provisions in the Framework in relation to achieving well-designed places and conserving and enhancing the natural and historic environments.

Conclusion

20. The site is within walking and cycling distance of Sidmouth town centre and is within the built up area where new housing is acceptable in principle. The Council does not raise concerns about the effect of the development on the nearby Area of Outstanding Natural Beauty, the living conditions of adjoining occupiers, highway safety, drainage and habitat mitigation. Be that as it may, these matters do not indicate that the appeal proposal is acceptable nor provide justification for development that conflicts with the development plan.
21. For the above reasons, the appeal is dismissed.

Tobias Gethin

INSPECTOR