
Appeal Decision

Site visit made on 16 June 2020

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd June 2020

Appeal Ref: APP/W4705/D/20/3251031

17 Victoria Avenue, Ilkley LS29 9BW

- 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 John Ogden against the decision of City of Bradford Metropolitan District Council.
 - The application Ref: 19/04827/HOU, dated 20 November 2019, was refused by notice dated 6 February 2020.
 - The development proposed is the construction of a car port to the side (north) of the existing detached garage and demolition of the existing garden outbuilding.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr John Ogden against the City of Bradford Metropolitan District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are (i) the effect of the proposal on the amenity value of the protected trees; and, (ii) whether it would preserve or enhance the character or appearance of the Ilkley Conservation Area.

Reasons

Protected Trees

4. The part of the appeal site where the proposal would be located is found in close proximity to a number of prominent trees. These are protected by way of a tree preservation order (TPO) and include 2 mature pines (T1 and T2), along with a number of other trees. An area of ash trees which overhang the northern site boundary are also the subject of a TPO.
5. The trees that are covered by the TPOs are attractive specimens and make a substantial and positive contribution to the visual amenity of the area. This is recognised by their inclusion within the TPOs. They contribute towards an appreciable verdant character and the area of ash trees is woodland-like in its qualities. As such, I find the value of the trees to be greater than is indicated in the appellant's tree survey.

6. It is not in dispute that the proposal would necessitate the loss of one of the protected pines (T1). With its amenity value, this would represent a significant loss. The appellant's Arboricultural Impact Assessment (AIA) refers to no loss of trees, which has been acknowledged is incorrect as regards the proposal which is the subject of the appeal. As the AIA is inaccurate on what is a central matter on this issue, it limits the weight that can be attached to its findings. In addition, the submitted Method Statement for Protection of Trees During Construction also states that no felling is required.
7. In lieu of the loss of the pine, 6 replacement trees are proposed. Beyond that they would be sited within the woodland and would be to Local Authority approval, precise details of the specimens are of a limited nature. Accordingly, it is hard to equate these replacements as being comparable to a protected tree, such as the mature pine. Hence, when its amenity value is considered, the information before me does not allow me to come to the view that compensatory provision would be adequately provided.
8. The limitations of the arboricultural information before me and the strong level of protection that is afforded by the TPOs also needs to be considered in relation to what the effect on the remaining protected trees would be. The canopies of the ash trees would overhang the proposal and the second pine (T2) would also be located in close proximity. The proposal would also intrude into the expected Root Protection Areas.
9. The proposed construction method involves a raised floor fixed to the ground with slender screw piles. This is also said to allow for the aeration of the soil around the tree roots, limiting the amount of hardstanding and allowing for services to be clipped to the underside of the floor. BS5837:2012¹ refers to how root damage can be minimised by using piles. However, this is dependent on site investigation in order to determine their optimal location. Whilst the appellant has submitted various supporting documents of how this is intended to work, none appear to have carried out such an investigation specifically as regards this site, such as excavations, soil or root samples.
10. In considering the potential use of planning conditions, concerning an updated AMS and other documents, site investigation works and replacement planting, this is dependent on such conditions not having the effect of nullifying a planning permission. Such an approach does not favour the proposal with the uncertainties that I have set out and in what is a sensitive location for trees, based on the totality of the evidence before me. It does not, therefore, provide me with a sufficient degree of reassurance in order to conclude that the effect on the trees would not be unduly harmful. The same applies in relation to other methods of mitigation that have been raised, including tree protection and fencing during construction, and general tree management.
11. That the Council did not request the relevant documents be updated during the course of the planning application does not address these concerns. Nor does the Arboricultural Statement submitted with the appeal as this document is principally based on a critique of the Council's Arboricultural Officer's comments.
12. I conclude that the proposal would have an unacceptable effect on the amenity value of the protected trees. As such, it would not comply with Policy EN5 of

¹ BS5837:2012 Trees in Relation to Design, Demolition and Construction - Recommendations

the Council's Local Plan for the Bradford District Core Strategy Development Plan Document (2017) (Core Strategy) which seeks to preserve and enhance the contribution that trees make to the character of the District, requires the retention of trees that are healthy and have clear public amenity benefit, and reaffirms the protection afforded to TPOs. This would not be outweighed by the planting of additional trees, under the policy.

Conservation Area

13. The site lies within the Ilkley Conservation Area. This part of the conservation area consists principally of detached dwellings of varying styles that are set on large enclosed plots. Tree cover is an important part of the significance and contributes towards a pleasing spacious and green character.
14. These qualities of the conservation area are ably demonstrated by the site, in particular by the tree cover that is found both within the site and around its boundaries. With the adverse effects to the trees that I have already identified, in particular the loss of the pine (T1) and the uncertainties over the effect on the remaining trees, the proposal would detract from the site's contribution to the significance of the conservation area.
15. I am less concerned about the effect on the spatial character. The site is expansive, even in these surroundings, and so the effect from the proposal in combination with the other buildings on the site would not be unacceptable. There would still be significant areas of open land remaining. The proposed design and external materials would also be broadly in keeping. Nevertheless, these matters do not address the detriment to the site's contribution by way of the effect on the trees.
16. I am required to have special regard to the statutory duty under Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Having regard to the above, the proposal would not preserve or enhance the character or appearance of the conservation area. This weighs considerably against the proposal.
17. Similarly, the proposal would not comply with Policy EN3 of the Core Strategy where it seeks to preserve, protect and enhance the character, appearance, historical value and significance of designated heritage assets, amongst other considerations.
18. For the purposes of paragraph 196 of the National Planning Policy Framework (Framework), the proposal would lead to less than substantial harm to the significance of a designated heritage asset. This would not be outweighed by the replacement tree planting as a public benefit because of the greater harm to the significance to the conservation area that would arise from the loss of the pine (T1) and the potential effects on other such trees. The vehicular storage capability of the car port would largely be a personal benefit. Accordingly, the proposal would not accord with the Framework in this respect.

Other Matters

19. The appellant has placed a significant emphasis on the views of the Council Officers to a previous planning application² on the site for what is agreed is essentially the same development. I am not, though, bound by such views as

² Council ref: 18/04200/HOU

my decision relates to a consideration of the matters of dispute that are the subject of this appeal. The concerns that I have set out above carry significant weight and are decisive, in particular with the levels of protection that are afforded on these matters. Nor is there a fallback position because the previous planning application was ultimately refused.

20. My attention has also been drawn to the not insignificant tree planting efforts of the appellant elsewhere. This would not account for the harm that would arise on the appeal site and so it does not alter my conclusion. In addition, tree matters which have been raised which lie outside of the scope of this appeal are not for my consideration.

21. Interested parties have raised a number of other concerns. However, as I am dismissing the appeal on other grounds, such matters do not alter my overall conclusion and have therefore not had a significant bearing on my decision.

Conclusion

22. For the reasons set out above and having regard to all matters that have been raised, the appeal should be dismissed.

Darren Hendley

INSPECTOR