



Appeal Decision

Site visit made on 12 February 2020

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23RD June 2020.

Appeal Ref: APP/V1260/W/19/3239437

**Shoulder of Mutton Public House, 1010 Ringwood Road, Bournemouth
BH11 9LA**

- 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 S Foster against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref 7-2019-3613-S, dated 2 April 2019, was refused by notice dated 2 August 2019.
 - The development proposed is erection of a retaining wall and regrading of slope.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a retaining wall and regrading of slope at Shoulder of Mutton Public House, 1010 Ringwood Road, Bournemouth BH11 9LA in accordance with the terms of the application, Ref 7-2019-3613-S, dated 2 April 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, MS/37018/AC Plan TC1 Tree Protection Plan & Arboricultural Method Statement dated 2 October 2019, MS/37018/AC Plan TC2 Indicative Wall Section and East End Detail dated 2 October 2019, MS/37018/AC Plan TC3 Block Plan dated 2 October 2019, MS/37018/AC Plan TC4 Wall Plan & Elevation dated 2 October 2019, 19332-01 P1 King Post Patio Retaining Wall Scheme Proposal dated 19 July 2019.
 - 3) The tree protection measures as detailed in the arboricultural method statement dated 4 February 2019 (as amended by the revised plans dated 2 October 2019) and prepared by 'treecall Consulting Ltd' Ref: MS/37018/AC shall be implemented in full and in accordance with the approved detailed measures and timetable and maintained and supervised until completion of the development.

Preliminary Matter

2. During the course of the application the plans were amended to take account of comments made by the Council and following consultation with a firm of Civil and Structural Engineers. Plan number 19332-01 P1 was received by the Council prior to the issue of their decision and other amended plans which

update the Arboricultural Method Statement with the revisions provided by the engineers are dated prior to the issue of the Council's appeal statement. As both parties have had a chance to consider and comment on the revised plans, I do not consider that anyone would be prejudiced should I determine the appeal on that basis. I have, therefore, determined the appeal on the basis of the revised plans and the scheme as amended.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area, with particular reference to its effect on two protected trees and the effect on the setting of a non-designated heritage asset.

Reasons

4. The appeal site is the Shoulder of Mutton Public House which is set back from the road behind a small front garden and parking area. The pub has an area of garden to the side and the hard-surfaced car park is surrounded on three sides by a number of mature trees; giving the area a verdant and green character and appearance.
5. The proposal is for the erection of a retaining wall and the regrading of a slope at the boundary with a residential property, No 6 High Oaks Gardens, in the rear corner on the far side of the pub's car park. No 6 is set at a higher level than the appeal site and the ground falls steeply into the site from the boundary.
6. The wall is required due to an erosion of the rear garden of No 6 and the slope at the boundary between the residential dwelling and the pub. Whilst no detailed information from a structural engineer assessing the issue has been provided, the extent of the erosion was clear at the time of my site visit.
7. A Tree Preservation Order, the Borough of Bournemouth West Howe Area No 2 Tree Preservation Order 1980 (TPO), covers the site and surrounding area. Two trees are present in the area which would potentially be affected by the proposal and, as these trees are likely to have been present in 1980, are protected by the TPO.
8. The two protected trees, both English Oak trees, within the vicinity of the proposed wall have been surveyed by an Arboricultural Consultant as part of an Arboricultural Method Statement (AMS) produced by treecall consulting LTD. The trees have been categorised according to the system set out in British Standard 5837:2012. T1, the larger of the two, has been categorised as 'B' which describes trees of moderate quality with an estimated remaining life expectancy of at least 20 years. T2 is considered to be a class 'C' tree which is defined as trees of low quality with an estimated remaining life expectancy of at least 10 years.
9. In my view, the above assessment is consistent with the appearance of the trees on site; with T1 making a more noticeable contribution to the character and appearance of the area than T2. The trees, particularly T1, are large and attractive and are visible from a number of public vantage points. They form part of a larger group which collectively have a high amenity value and contribute positively to the character and appearance of the area.

10. The AMS sets out the proposed working methodology for the construction of the wall in such a way so as to minimise the potential impact on the protected trees. The AMS was amended following consultation with a firm of Civil and Structural Engineers and now proposes a kingpost and sleeper construction designed and constructed in such a way so as to avoid damage to the roots of T1 and T2. The AMS sets out key steps such as the appropriate storage of materials on site, the guidance for cement mixing and fires on site and the construction methodology which must be followed. The methodology includes restrictions on vehicle movements around the site, the use of tree protection fencing, the requirement to hand dig exploratory holes and carry out works in accordance with BS 3998:2010 'Tree work - Recommendations'. The AMS also includes the requirement for drainage holes in the wall and sets out details for the backfilling of the land behind the retaining wall. The AMS states that the backfill behind the finished wall must be added in layers of decreasing particle size so as to allow for drainage and maintain an open structure with air spaces for respiration of roots.
11. I note the Council's concerns regarding the AMS. However, in my view, the updated AMS, which includes the revised methodology and drawings, is sufficient to demonstrate that the proposed development is capable of being carried out in such a way so as not to be detrimental to the long-term retention of the protected trees.
12. The Shoulder of Mutton Public House, described by the Council as a locally listed building, is a heritage asset as defined by the National Planning Policy Framework (the Framework). According to the Heritage Statement provided by the appellant, the locally listed pub appears to draw its significance from its historical use as an inn as well as a number of internal features, such as flagstone floors and wooden panelling. I can see no reason to disagree with this assessment.
13. The proposed retaining wall and regraded slope would be sited some distance from the pub itself and the visual association between the two would be limited. The proposal would not affect the use of the pub or its historical significance or features. Moreover, in my view, the development would represent an improvement on the current boundary treatment which is dilapidated and partially eroded.
14. Whilst I concur with the Council's view that the two protected trees contribute towards the mature greenery which provides an attractive, verdant backdrop for the building, the Heritage Statement does not appear to make reference to these trees in respect of the significance of the asset. In my view, whilst the trees are indeed attractive, they do not have a tangible impact on the significance or setting of the asset. In any event, as set out above, I consider that the development could be carried out in such a way so as to safeguard the longevity of the two protected trees. For these reasons, the proposed development would not cause harm to the setting of the heritage asset.
15. Consequently, I consider that the proposal would not cause harm to the character and appearance of the area with particular reference to the effect on two protected trees and the effect on the setting of the non-designated heritage asset. The proposal would, therefore, accord with Policies CS40 and CS41 of the Bournemouth Local Plan: Core Strategy, 2012. Amongst other things, these policies seek to protect local heritage assets and state that

development which would be detrimental to the built environment, amenity or character of any part of the Borough will not be permitted.

16. The proposal would also comply with Saved Policy 4.25 of the Bournemouth District Wide Local Plan, 2002 which states that applicants should provide an accurate tree survey and future arrangements for their management should be submitted for approval in association with planning applications.
17. Furthermore, the proposal would conform with the Framework which sets out arrangements for the protection of heritage assets, promotes high standards of design and states that developments should be visually attractive and sympathetic to the character of the area.

Conditions

18. In addition to the standard commencement condition, one that requires the development to be undertaken in accordance with the approved plans is necessary in the interests of certainty. A condition which requires the tree protection measures set out within the AMS to be implemented, maintained and monitored is also required in the interests of protecting the trees which are the subject of the TPO.

Conclusion

19. Having regard to my conclusions on the main issue I conclude that the appeal proposal would not cause harm to the character or appearance of the area. The appeal therefore succeeds.

L J O'Brien

INSPECTOR