
Appeal Decision

Site visit made on 16 June 2020

by A Blicq BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2020

Appeal Ref: APP/P1805/W/20/3248040

14 Cherry Hill Drive, Barnt Green B45 8JY

- 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 Damani against the decision of Bromsgrove District Council.
 - The application Ref 19/00533/FUL, dated 23 April 2019, was refused by notice dated 22 November 2019.
 - The development proposed is proposed new residential dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is whether the development would preserve or enhance the character or appearance of the Barnt Green Conservation Area (BGCA).

Reasons

3. The appeal site is a long narrow plot, fronted by an Arts and Crafts style dwelling that occupies almost all of the plot width. The front and rear gardens contain many mature tree specimens.
4. Cherry Hill Drive is a narrow and inclined access lined with trees on one side and a series of set-back dwellings with limited lateral separation on the other. Although there is evident architectural variation, the dwellings' style and detailing are consistent with the BGCA's description of the area's development as a prosperous residential suburb between the late 19th and early 20th centuries. Notwithstanding the near continuous building line, the very long rear gardens contribute to a relatively low building density and the preponderance of vegetation and the narrow lane give the immediate vicinity a distinctiveness and semi-rural character which contrasts with the nearby and far more suburban Fiery Hill Road.
5. I conclude that the significance of the locality to the BGCA is derived from its layout, architectural fabric and mature trees which is reflective of the area's social and economic history. Number 14 Cherry Hill Drive's (14's) individual building style and mature garden trees make a positive contribution to that significance.
6. The application is for backland development of a detached dwelling located at the very end of the garden. Access would be facilitated by the demolition of

the side extension and the construction of a long and meandering drive between retained trees.

7. The development would entail the removal of some of the most imposing specimens within the rear garden, as well as the likely loss of a conifer in the front garden, which given its location, seems unlikely to survive the need for major construction access. Moreover, although there are approximately the same number of category B and C trees, a larger proportion of category B trees would be removed than category C. This suggests to me that the retention of the better trees on the site has not been given particular weight or that design constraints set by the better trees were presumed to be of lesser importance than the imperative to locate the dwelling and access. Whilst it may be the case that as many trees were retained as possible, the fact is that the better trees are largely those that would be removed. This is not necessarily indicative of sensitive design.
8. Moreover, I have reviewed the tree survey against my observations on site. It is unclear to me why trees and large shrubs noted as being in good physiological and structural condition, with no significant defects and at maturity, should be recorded as Category C¹. They have grown in a garden environment and although some appear slightly suppressed by proximity to other specimens, they have at least collective visual merit in this context.
9. Similarly, I am unclear why at least one specimen categorised as B fails to be considered as category A. I note in particular the young deodar cedar. In my experience it is not unusual to see fine specimens at more than 100 years old. I am unclear why its life expectancy is given as 20+ years rather than the 40+ years that I would have expected from a young tree of this species. Moreover, BS5837 notes that when categorising trees they should not be downgraded as a consequence of minor imperfections. However, notwithstanding these observations it remains that the higher quality trees, as identified by the survey, would be disproportionately removed.
10. Moreover, although the trees form an integral part of the BGCA's appreciation, there is little evidence that the BGCA has been taken into account in the categorisation. Even if I agreed that collectively the trees do not have a landscape value, it is difficult for me to conclude that they do not have at least some material cultural or conservation value in this context².
11. The appellant appears to argue that the trees are not of particular value as they are not category A. However, even if I agreed with the categorisation, the fact that trees are category B and C does not necessarily justify their removal or diminish their local importance. Nor does the fact that some specimens appear to be non-native weigh in favour of their removal, particularly as the specimens highlighted in this regard are three of the most imposing trees on the site. In any case, I conclude that the tree survey understates the value of individual specimens as well as the contribution they make to the local landscape and the BGCA.
12. Furthermore, even where it is proposed that trees are retained, it seems highly likely that canopies would need to be raised to allow construction access, and the access road would also run over extensive root areas. Such activities

¹ Trees 2,5,9,11,12,13,15,19,20

² Sub-category 3 Table 1 of BS 5837.

- would be highly likely to be detrimental to the retained trees' future health and longevity. In the case of the young cedar, the proximity of the access road would be likely to preclude further lateral expansion.
13. It is also highly likely that future occupiers would find that the levels of shading were detrimental to their living conditions, particularly given the dwelling's sunken position relative to the road and retained trees to its south. This would generate pressure for further pruning and tree removals, with further detrimental impacts on the character and appearance of the area.
 14. I have set out above that these garden trees make a positive and significant contribution to the BGCA. They also form a bank of vegetation when viewed from the recent development of Butterwick Close, as well as acting as a screen and a foil for the more heavily developed site at No 10.
 15. Consequently, I conclude that the combination of pre-development felling, and the likely fate of retained trees would have a significant effect on the tree cover at No 14. I also agree with the Council that the proximity of the hawthorn boundary hedge, which forms an effective screen with Butterwick Close, would be likely to be retained in a more formal manner, given its proximity to the dwelling.
 16. Number 14 is a hipped dwelling, and the position of the front door and a first floor projection, together with No 14's planning history supports the assertion that the dwelling has had a two storey side extension under an extended ridge. It is however unclear from the evidence before me whether the side extension replaced another subservient structure. In any case it appears that a garage and first floor extension date from the 1950's.
 17. Even if I accepted the argument that the removal of the side extension would restore the building to its original proportions, it is not unpleasing in its current state and there is nothing before me to indicate that it detracts from the BGCA. Consequently, I give this neutral weight in my reasoning.
 18. In any case, the new residential access would be squeezed into what looks to be a very narrow access between the revised side extension of No 14 and 16 Cherry Hill Drive, which is itself very close to the boundary. This would be in stark contrast to the access road at No 10 which appears to be about double the width proposed here, as well as having verges. The narrowness of the proposed access road is reinforced by the fact that it would widen out immediately beyond the rear elevation of No 14 suggesting that it is recognised that its width is restrictive. It would appear cramped and incongruous in this context.
 19. The appellant argues that the Council has set precedents for development of these backland areas through extensive development to the north at Butterwick Close, the development at No 10, and land behind 63 Fiery Hill Road (No 63). However, the area to the north is outside the BGCA, and in any case there is nothing before me to suggest that this redevelopment took place on backland sites.
 20. At No 10 the evidence before me suggests that the former frontage dwelling did not occupy the entire plot and in any case No 10's plot is about twice the width of that at No 14. As such the situations are not comparable.

21. The development of No 63 appears to be detached dwellings on spacious and largely rectangular plots, amidst clumps of trees. I am unclear when these dwellings were given permission but they appear to have a level of spaciousness that would not be achieved here.
22. In any case, the partial demolition of an existing period building, the rather tortuous access route and the siting of an overly large dwelling at the far end of the site where it would in any case be subject to significant overshadowing from retained trees, suggests a development that is insensitive to its context.
23. Moreover, when moving up Cherry Hill Drive towards No 14, there is greater tree cover and a distinct shift in building style with greater architectural consistency and increased appreciation of the defining features of the BGCA. I conclude that although there has been a history of backland development to the east of No 14, this does not justify further incremental encroachment into an area that appears to have resisted such pressure to date. Furthermore, the recently adopted SPD³ advises against backland development and is supported in this regard by Policy BDP19 of the Local Plan (LP).
24. I conclude that the loss of the trees, and the subdivision of No 14's garden would be detrimental to the BGCA. This would fail to accord with the provisions of the Act⁴ which requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
25. The development would amount to less than substantial harm as set out in Paragraph 196 of the National Planning Policy Framework (the Framework). In this instance that harm should be weighed against the public benefits of the proposal. Although I accept that there would be a very minor contribution to local housing supply in a highly sustainable location, this would not outweigh the harm to the BGCA identified above. In any case LP Policy BDP7 requires development to take account of identified housing needs in terms of size and type of dwelling, and on developments of less than ten dwellings, 2 and 3 bedroom properties are required. This is a 4 bedroomed dwelling.
26. I agree with the Council that the siting of a large detached dwelling at the very end of a long and narrow garden plot is contrived and incongruous. I appreciate that it would follow the building line set by the redevelopment of No 10 but that development is linked by virtue of other dwellings to the frontage of Cherry Hill Drive.
27. I disagree that the Council accepts the proposed layout. The Council found no harm in relation to the dwelling's design, but it seems to me the Council has clearly found harm in relation to its position within the site.
28. I conclude that the development would fail to preserve or enhance the character or appearance of the BGCA. This would be contrary to LP Policy BDP7 with regard to the size and type of dwelling as well as the failure to maintain character and local distinctiveness, and LP BDP19 which requires development to ensure appropriate trees are retained, as well as enhancing the character and distinctiveness of the local area, amongst other requirements. The proposals would also fail to accord with LP BDP20 which requires

³ High Quality Design SPD June 2019

⁴ Planning (Listed Buildings and Conservation Areas) Act 1990

development to sustain and enhance heritage assets and LP BDP21 which seeks to achieve better management of the natural environment.

29. As noted above the development would also fail to meet the guidance set out in the SPD⁵ with regard to backland development. The Council has cited the Framework in its decision. Although no specific paragraphs are listed, the Framework is generally supportive of and consistent with the policies I have noted above.

Planning balance

30. The Council is unable to demonstrate sufficient housing land supply. However, as I have noted above there is nothing before me to indicate that the dwelling would make any more than a minor contribution to local housing supply, and nor is there anything to suggest that there is a significant shortfall in dwellings of this size and type.
31. Moreover, I have found harm in relation to the BGCA through the impact of the development on local distinctiveness as well as the likely loss of valuable trees. Although this dwelling would be in a sustainable location, and be of minor benefit to the local economy, I conclude that the benefits are insufficient to outweigh the harm I have identified. Accordingly, the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.

Conclusion

32. I conclude that the development would fail to meet the relevant policies of the Local Plan, or the requirements of the Act and the Framework in relation to heritage assets. The appeal should be dismissed.

A Blicq

INSPECTOR