The Planning Inspectorate

Appeal Decision

Site visit made on 23 June 2020

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 June 2020

Appeal Ref: APP/V1260/D/20/3247209
24 Little Forest Road, Bournemouth, BH4 9NW

- 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 G Fidler against the decision of Bournemouth, Christchurch and Poole Council.
- The application Ref 7-2019-7934-L, dated 10 October 2019, was refused by notice dated 27 November 2019.
- The development proposed is stated on the application form to be "erection of a detached double garage and new front wall with railings and iron gates – revised application".

Decision

1. The appeal is dismissed.

Preliminary matters

2. Planning permission was granted in July 2019, under reference 7-2019-7934-K, for essentially the same development as is proposed here, but without the proposed removal of the 3 beech trees located at the western corner of the appeal site, at the front of the appeal property. The Council has pointed out that this revised aspect of the proposal was a matter of discussions and negotiations on the previous application, and that it was only with the removal of this part of the previous proposal that the Council felt able to support it. I saw at my site visit that this previous permission has been implemented, with construction well under way on the approved garage.

Main issue

3. With the above points in mind, the main issue is whether the proposed development would preserve or enhance the character or appearance of the Meyrick Park and Talbot Woods Conservation Area.

Reasons

4. The appeal property is a 2-storey detached dwelling, set in a spacious plot on the south side of Little Forest Road. It lies within the Meyrick Park and Talbot Woods Conservation Area ("the Conservation Area"), and backs onto Meyrick Park. I saw at my site visit that this Elgin Road/Little Forest Road area generally contains a large number and wide variety of mature trees, located in the front and rear gardens of dwellings. These trees give the area a very attractive sylvan character and appearance, which is further enhanced by the presence of a significant amount of smaller trees, shrubs and hedging in the various residential plots.

5. The Council has assessed the dwelling as making a neutral contribution to the character and appearance of the Conservation Area, and I see no reason to take a contrary view. Similarly I see no reason to find the proposed garage in any way objectionable. However, the appellant is concerned about the effect that the 3 beech trees at the front of the property are having on the structural stability of the front and side walls, and therefore seeks to remove these trees and replace them by planting 6 trees elsewhere within the dwelling's curtilage. These beech trees are protected by an area-wide Tree Preservation Order (TPO), which covers the Elgin Road and Little Forest Road areas, and this appeal therefore turns on the acceptability of removing the 3 beech trees.

6. In this regard the appellant has submitted a Structural Appraisal Report which notes the presence of a crack in the front boundary wall and a lean of some 45mm in the side wall on the common boundary with No 22, likely caused by tree root growth. It indicates that although the crack in the front boundary wall is not serious, and could be repaired, this course of action is not recommended as the crack will only worsen in the future. The Report comments that the wall is having to resist the lateral force of soil and tree roots but was not intended to act as a retaining wall, and almost certainly has inadequate foundations for this function.

7. The foundation of the wall was not exposed as part of this structural assessment, but it is likely to just be a shallow strip foundation - not reinforced - probably some 600mm wide and 150mm deep. The Report considers that the presence of the crack has increased the likelihood of the wall failing; that it is therefore prudent to take the wall down before it fails; and that it would not be possible to rebuild the wall without removing the tree as a replacement wall would need a reinforced concrete foundation some 700mm wide, which would impinge on the root ball of the tree. In summary the Report concludes that replacing the wall is not possible without removing the soil and/or the tree; and that removing the soil would almost certainly damage the tree, which may make its retention unviable.

8. It is of note that much of this Report refers to "tree" in the singular. It is therefore unclear whether the author is suggesting that the retention of all 3 trees could be unviable, or whether the above comments relate solely to the tree closest to the front wall.

9. Arboricultural consultants for the appellant state that the trees are effectively containerised by the existing boundary wall and surrounding hard surfacing, arguing that this has limited their rooting environment and has had an adverse effect on their condition. They state that the trees have historically been topped or pollarded at approximately 2m above ground level, with multiple cavities at the re-growths' attachment points, and further state that at a site meeting the Council's Tree Officer indicated that the trees require a crown reduction, regardless of any planning application. They argue that such extensive work would adversely affect the amenity of these trees and, as a result, they contend that removing the trees would be a reasonable approach as replacement trees would, in time, mitigate for the loss of what they refer to as compromised specimens.

10. However, a somewhat different view has been expressed by the Council's Tree Officer in a written consultation response, which post-dates the aforementioned site meeting. In this response the Tree Officer maintains that these 3 early mature beech trees, at about 12m high, constitute a significant group of healthy trees which are prominent and highly visible in the street-scene, with exceptional visual amenity value. I share that view, which seems to me to be an accurate assessment

of the physical appearance and amenity value of this group of trees, which provide an attractive and noticeable presence in this part of the street-scene. Their removal would therefore have an adverse impact on the area's character and appearance.

11. Whilst I acknowledge that some replacement trees are offered in mitigation for the proposed removal, I consider that it would be many years before they would approach the amenity value of the existing group, and this further indicates why the current proposal is not acceptable.

12. I have noted the appellant's arboricultural consultants' comments that these beech trees are atypical in this Conservation Area, but I do not consider this to be a reasonable justification for their removal, especially considering the relatively wide variety of tree species in the Conservation Area as a whole. I have also noted their comments that the Structural Appraisal Report concludes that all reasonable construction methods cannot be employed whilst retaining the subject trees. However, this does not seem to me to be totally accurate, as this Report does not appear to address the comments from the Council's Tree Officer, that foundations could be arranged to bridge over tree roots, with a local example cited.

13. Having regard to all the above points, I conclude that the proposed development would fail to preserve or enhance the character or appearance of the Conservation Area. Accordingly, it would be at odds with saved Policy 4.4 of the Bournemouth District Wide Local Plan and would also be in conflict with Policies CS39 and CS41 of the Bournemouth Local Plan Core Strategy. In summary, and amongst other matters, these policies seek to protect designated heritage assets and ensure that new development respects the site and its surroundings, contributes positively to the appearance of the public realm and conserves and improves townscape.

14. Paragraph 193 of the National Planning Policy Framework (NPPF) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. In this case I consider that the harm which would be caused to the significance of the Conservation Area would be less than substantial, with NPPF paragraph 196 explaining that in such circumstances, the harm needs to be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

15. However, I am not persuaded that any real public benefits would arise from the appeal proposal. I have noted the support from an occupier of the neighbouring property, No 22, who is concerned that the boundary block wall will fall onto her property, but it seems to me that the problem of this leaning wall could very probably be addressed without removing the beech trees, as detailed earlier.

Conclusion

16. For the reasons set out above, and having had regard to all other matters raised, I do not consider that any public benefits of this scheme would outweigh the harm to the significance of the Conservation Area which I have identified. I therefore conclude that this appeal should be dismissed.

David Wildsmith

INSPECTOR