



Appeal Decision

Site visit made on 30 June 2020

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2020

Appeal Ref: APP/K2420/W/20/3246720

20 Coventry Road, Burbage LE10 2HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Christie Glenn against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 19/00833/OUT, dated 23 July 2019, was refused by notice dated 23 October 2019.
 - The development proposed is for access to and siting of a new dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was made in outline with all matters other than access and layout reserved for future consideration. I have determined the appeal on this basis, treating the submitted plans and details provided as illustrative, insofar as they relate to matters other than access and layout.

Main Issue

3. The main issue is the effect of the proposed development on the existing trees having particular regard to the Wellingtonia (T4) at the front of the site.

Reasons

4. The appeal site forms part of the garden area of a substantial two storey detached property set back from the road within a mature well-established residential area. It is located within a large spacious landscaped plot, including a number of mature established trees within and adjoining the site, some of which are protected by a Tree Preservation Order (TPO). The outline proposal would involve the construction of a dwelling and a new vehicular accessway.
5. The submitted site plan no. 19/25/01E illustrates that the proposed accessway would involve the removal of a number of trees along the frontage of the site, including a Wellingtonia (T4), a Blue Spruce (T5) subject to a TPO and a Lawson Cypress (T6). From my observation during my site visit, these established trees individually, in particular the Wellingtonia (T4), and as part of the adjoining group of trees, make a significant contribution to the visual amenity and the character and appearance of the area.

6. British Standard *Trees in Relation to Design, Demolition and Construction – Recommendations* (BS5837:2012) requires an assessment of the likely long term implications of the scheme for the trees. The Standard is a significant material consideration. The Wellingtonia (T4) is identified in the appellant's submitted tree survey as a good young specimen in terms of physiological/ structural condition and of a moderate quality and value, where retention is mainly due to its landscape qualities (Category B2)¹. The Blue Spruce (T5), Lawson Cypress (T6) and a Rowan (T21) to be removed are identified in the appellant's submitted tree survey as of low quality and value, where retention for T5 and T6 is mainly due to their arboricultural value (Category C1) and for T21 mainly due to its landscape value (Category C2)².
7. Although the proposed development would retain a number of the established trees and landscaping features within and along the boundaries of the site, the removal of the established trees at the front of the site, in particular the Wellingtonia (T4), would significantly compromise the key landscape features and green and verdant character of the site. These shortcomings would be exacerbated by the proposal's prominent position, which would be visible from a number of public vantage points along Coventry Road. As such, I consider the proposed development would adversely harm rather than positively contribute to the visual amenity and the character and appearance of the area.
8. I have considered the appellant's arguments that the design and layout of the development has been carefully considered in order to minimise any impacts on the trees and the area. I also note the appellant's comments regarding the unsuitability of the Wellingtonia (T4) to the site and its urban setting and the appellant's willingness for a planning condition to be imposed, if this appeal were to be allowed, in order to provide appropriate mitigation planting. Whilst the tree protection measures, landscaping and replacement tree works would reduce the impact of the proposal to some degree these aspects do not overcome the adverse effects outlined above.
9. Consequently, I conclude that the proposed development would have a harmful effect on the existing trees, in particular the Wellingtonia (T4), that contribute to the visual amenity and the character and appearance of the area. The development would conflict with Policy DM10 of the Hinckley and Bosworth Site Allocations and Development Management Policies Development Plan Document 2016. This policy seeks, amongst other things, to ensure all development complements or enhances the character of the surrounding area with regards to layout and design and incorporate a high standard of landscaping where this would add to the quality and siting.

Other Matters

10. I have noted the Council's and appellant's comments regarding the consultation on the Provisional TPO issued on the site. Whilst I note that the Council's comments that this TPO has been issued to protect the established trees at the front of the site, in the interest of protecting their amenity value, I have little substantive evidence before me as to the extent of unresolved objections to this TPO and whether it has been approved by the Council. In the absence of any convincing evidence to the contrary regarding its status, I attach only limited weight to this matter in making this decision.

¹ Tree Survey Prepared by Dr Stefan Bodnar September 2019 Sections 3 and 4

² Tree Survey Prepared by Dr Stefan Bodnar September 2019 Sections 3 and 4

11. The Council and the appellant's submitted tree survey also refer to a Cypress (T3a) and Cherry (T22) immediately to the north-east of the site. I note the discussion by the main parties regarding the removal of these trees and the appellant's comments regarding the Council's alternative access arrangements over land not within their ownership. Whilst this maybe so, this would result in material changes to the proposal before me and in any event, I am required to consider the proposal on the basis of the same details that were before the Council when it made its decision.

Overall Planning Balance and Conclusion

12. The Council accepts that it cannot demonstrate a five year supply of deliverable housing sites. In these circumstances, the National Planning Policy Framework 2019 (the Framework) states that relevant policies for the supply of housing cannot be considered up to date if the local planning authority cannot demonstrate such a supply. Paragraph 11 of the Framework sets out the presumption in favour of sustainable development. For decision making this means that where the relevant policies are out of date, planning permission will be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
13. I have considered the various benefits put forward by the appellant that the proposal would bring arising from the scheme's design, the efficient use of land on a small site within an accessible location and through contributing to the local economy and the housing supply in the area. While I have given them some weight in favour of the appeal, these modest benefits would not be sufficient to outweigh the harm I have identified. I have found above that taken overall the development would harm the visual amenity and the character and appearance of the area and would be contrary to the design aims of the relevant development plan policy set out above.
14. The harm set out above would conflict with the environmental objective of sustainable development and, in my view, would be sufficient to significantly and demonstrably outweigh the scheme's benefits when assessed against the Framework read as a whole. The proposal would not therefore amount to sustainable development in the terms of the Framework. The Framework is a material consideration. However, in the circumstances of this appeal, the other material considerations do not justify making a decision other than in accordance with the development plan.
15. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR