
Appeal Decision

Site visit made on 21 July 2020

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2020

Appeal Ref: APP/K0425/W/20/3246242

33 Hampden Road, High Wycombe HP13 6SZ

- 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 Qamar Zaman against the decision of Buckinghamshire Council - Wycombe Area.
 - The application Ref 19/07342/FUL, dated 26 September 2019, was refused by notice dated 12 December 2019.
 - The development proposed is a single detached two storey dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. On 1 April 2020 Wycombe Borough Council, along with other councils merged into a single Unitary Authority called Buckinghamshire Council. The authority's new name has been referred to in the banner heading.

Main Issues

3. The main issues in this appeal are:
 - the effect of the proposed removal of the protected sycamore tree on the character and appearance of the surrounding area;
 - the effect of the proposed access on highway safety with particular regard to its adequacy for emergency vehicles and the safety of vehicular and pedestrian traffic;
 - the effect of the proposal on flood risk, with particular regard to the disposal of surface water; and
 - the potential effect of the proposal on biodiversity.

Reasons

Character and appearance

4. The appeal site is in a backland location, to the rear of Nos 33 – 37 Hampden Road, and residential properties fronting Roberts Road and Hamilton Road. Its southern portion is dominated by a protected sycamore tree that is proposed to be felled.

5. The sycamore is some 15m in height with a substantial crown that during the time of my site visit appeared vigorous, with live growth throughout the canopy. Given its scale the sycamore is visible from the rear windows and gardens of a large number of surrounding properties, and in combination with other smaller trees nearby, provides a striking and verdant backdrop at this backland location. The sycamore is also perceptible from Hampden Road rising above roofs and prominent through driveways and gaps separating the dwellings. Therefore, the tree's size and attractive appearance contributes significantly to the character of the surrounding area.
6. While many surrounding trees would remain, the loss of the sycamore would leave a substantial gap when viewed from the rear of surrounding properties. This would have a considerable and long-lasting detrimental effect on the visual amenity of the surrounding area, diminishing its verdant and sylvan character.
7. Notwithstanding my assessment, the appellant's arboriculture report indicates that the tree is showing signs of decline with ivy growth, dieback in the crown and displaying small leaves for the species. This has led to a conclusion that the tree's condition is poor and has a life expectancy of 10 years or less. Both main parties have referred to a possible cause of this decline being attributed to successive ground disturbance and excavation within the tree's radial rooting area, whilst the Council's tree officers consider that the reduction in the tree's vitality may only be temporary, and from which it may recover. Despite the appellant's proposal to remove the tree, he has expressed a desire to preserve and keep the tree in good condition if it were possible, and to look at alternative layout arrangements. I also note that the arboriculture report refers (paragraph 7.4) to there being technical solutions available to minimise the impact on the sycamore.
8. The evidence before me suggests that the sycamore's deterioration may only be temporary and that there would be a possibility of recovery, along with technical solutions to minimise the impact upon it. Even if the tree were not to recover beyond its current condition it would continue to provide valuable visual amenity in the area for a period of up to a decade. On this basis I am not persuaded by the arboriculture report's recommendation of removing the tree.
9. Although I have not been presented with any specific details, the appellant refers to the planting of a standard tree on the site, as mitigation for the loss of the sycamore. However, I have no details of the tree's indicative location. Nevertheless, compensatory planting would take a number of decades to reach the same level of maturity as the sycamore and would therefore not provide satisfactory mitigation in this particular case.
10. I note that a further justification for the tree's removal is its proximity to Nos 35 and 35A Hampden Road. Yet the tree is located at the end of the gardens of these dwellings, while its separation distance and canopy spread does not significantly harm the living conditions of these properties, such that it would require the tree's removal. Furthermore, I have not been referred to any representations indicating any concerns from these properties, in this respect.
11. In conclusion, the protected sycamore tree has a high amenity value and its loss, to facilitate the proposed development, would harm the character and appearance of the surrounding area. Accordingly, the proposal would conflict with the requirements of Policies CP9, CP10, DM34 and DM35 of the Wycombe District Local Plan, Adopted August 2019 (the Local Plan). These, in part, require development proposals to conserve the natural environment and green infrastructure, while considering the retention of positive characteristics of its natural and built context.

12. The Council's reason for refusal on this matter refers to Local Plan Policy DM20. However, I do not consider that the considerations listed in the policy are specific to this main issue, therefore I have not referred to it in my conclusion.

Highways

13. Due to the narrow width of the proposed access and the distance from the road, the proposed development would not conform to fire and rescue vehicle requirements set out in Manual for Streets (MfS). The shortfall in the access road's dimension is significantly below the standard required by MfS, whilst the presence of the flank wall of No 33 Hampden Road removes any scope for widening the access. These physical constraints could result in the larger vehicles used by emergency services reversing onto the highway after attempting to access the site, thus posing a risk of collision with traffic and the parked cars using the on-street parking bays, close to the site access with Hampden Road. No alternative arrangements that would be realistic or acceptable to meet the standards of the emergency services are before me.
14. The need for access to a development of this scale by large fire appliances would typically arise only very rarely, however the impact of such access being unachievable could be very serious. In light of my concerns, this is not a matter I would reasonably be able to secure by condition. In the absence of substantive evidence to demonstrate that compensatory measures can be adequately secured to address this matter, and having viewed the site, there is considerable doubt in my mind as to whether the appeal proposal would provide a safe and adequate means of access for emergency vehicles, which could be to the detriment of highway safety.
15. The appellant has referred to the neighbouring Roberts Road scheme having a similar distance for emergency vehicles to access the development. However, I have not been presented with the full details of that scheme to wholly understand the performance in terms of emergency vehicle accessibility and whether any compensatory measures were required to be secured in this regard. In any event, I have determined the appeal on its individual merits.
16. The proposal would utilise the existing access between Nos 35A and Nos 37, 37A and 37B Hampden Road. It currently provides vehicular access to a small parking forecourt serving three properties. The Council has concerns that the narrow width and lack of a separate pedestrian footway along the access would not meet its standards for a shared access, and it would result in conflict between vehicular and pedestrian traffic.
17. During my site visit I noted that the access was narrow in places, although it is wide enough for the cars that currently park in the small forecourt area. Moreover, the straight alignment of the access allows vehicles at either end to observe oncoming traffic entering and leaving the site. I note that there could be up to 24 daily movements using the access, however, over the course of a day I consider that the occurrences when vehicles would encounter each other would be very rare. Nevertheless, in the event of this happening, vehicles reversing onto Hampden Road would have to either wait for a short period or have to retreat a short distance such that these actions would be unlikely to cause significant impacts on highway safety. Furthermore, the 20mph speed limit along Hampden Road and its straight alignment would provide oncoming vehicles with sufficient time to observe vehicles emerging from the proposed access and could either reduce their speed or wait. Whilst I have concerns with emergency vehicles encountering a similar scenario where they would be forced to reverse away from the site access onto Hampden Road, these would, in contrast, be larger vehicles

and their ability to manoeuvre would be hampered considerably by the dimensions of the road and the presence of parked cars within the parking bays close to the site access.

18. There would be insufficient room along the access to accommodate a pedestrian footway to the Council's standard. Nevertheless, it would be rare for pedestrians and vehicles to encounter each other at the same time given the low number of properties that would use the access along with the small volume of daily movements forecasted. In the event that pedestrians do encounter vehicles, these would likely be travelling at very low speeds and with caution, given the width and alignment of the access, which would in turn give pedestrians and motorists sufficient time to react. Furthermore, I have not been referred to any serious incidents along the access that would suggest that there are currently safety issues between vehicles and pedestrians.
19. I have found that the proposed access arrangement would not have an unacceptable effect on highway safety with particular regard to the safety of vehicular and pedestrian traffic, and would comply with aspects of local planning policy in this regard. However, the access arrangements would not provide adequate access for emergency vehicles to the proposed development and as such could cause harm to local highway safety. Therefore, the proposal would conflict with Policy DM33 of the Local Plan where it requires that proposals are provided with safe and convenient access to the local highway network for all modes and have appropriate access for servicing. It would also be contrary to the Buckinghamshire County Council Local Transport Plan 4 (March 2016-2036) and the Buckinghamshire County Council Highways Development Management Guidance (adopted July 2018), where they require developments to make suitable arrangements for access of large vehicles, including emergency service vehicles.

Biodiversity

20. The proposal would necessitate the removal of the protected sycamore. Given the scale of the tree it could support and provide a habitat for protected species such as bats. The appellant confirms that there is no evidence of a bat roost in the sycamore tree. However, this has not been confirmed through a survey or detailed investigation.
21. Policy DM13 of the Delivery and Site Allocations Plan (July 2013) (DSAP), requires development proposals which could potentially affect a designated site, important habitat or protected species to be accompanied by reports relevant to the impacts of the development on the species or features of interest.
22. Without any survey of the relevant features it is simply not known whether protected species are present and, if there are, whether mitigation measures would be appropriate. There is a further question concerning the implementation of any such measures. Given this degree of uncertainty, the use of conditions would not be reasonable in this case.
23. The appellant indicates that to his knowledge he did not receive any request from the Council for an ecological report. Even if the appellant was not given the opportunity to prepare and submit this, it has not changed my view on the need for this information.
24. The absence of sufficient information means I cannot rule out potentially significant harm to biodiversity. As such, it would be contrary to Policy DM34 of the Local Plan and Policies DM13 and DM14 of the DSAP. These, amongst other things, require that all developments protect and enhance biodiversity features and networks both on and off-site and that reports, or surveys are submitted where potential

biodiversity interests are identified on site which demonstrates how these interests will be addressed.

Flood risk

25. A Flood Risk Assessment is not required in this instance as the appeal site is located in Flood Zone 1. Notwithstanding this, Paragraph 163 of the Framework does state that Local Planning Authorities should ensure that flood risk is not increased elsewhere as a result of the development. Furthermore, Policy DM39 (criteria 6) of the Local Plan states that all development will be required to incorporate Sustainable Drainage Systems, to ensure that run-off rates at the site boundary of greenfield sites will not be exceeded by the development.
26. The Lead Local Flood Authority (LLFA) has raised concerns that details of a viable method of surface water disposal have not been submitted. I note that the appellant has received an expert verbal opinion that surface water can be adequately provided through a soakaway. However, the LLFA require evidence of the site's infiltration capability, calculations that the drainage system can function during storm events and an indicative drainage layout. In the absence of these details, I am unable to determine with any confidence whether an appropriate method of surface water management at the site can be achieved, and that the proposal would not be susceptible to surface water flooding or that surface water flood risk would not increase elsewhere as a result of the proposal.
27. For these reasons, I am not satisfied that the proposal would make adequate provision for reducing the risk of surface water flooding. It would therefore fail to comply with Policy DM39 of the Local Plan which seeks to ensure surface water does not increase flooding risk.

Other Matters

28. The proposed dwelling would be consistent with the mix of designs in the surrounding area, while there is no objection in principle to its backland location given the precedent for this type of development nearby. However, the lack of objection on these matters does not overcome the concerns I have raised above.
29. I note there are land ownership issues raised in third party representations, however, these are private matters between the relevant parties and not within my jurisdiction.

Conclusion

30. For the reasons given above the appeal should be dismissed.

R. E. Jones

INSPECTOR