



Appeal Decision

Site visit made on 15 September 2020

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th September 2020

Appeal Ref: APP/R0660/W/20/3254643

27 Park Road, Willaston CW5 6PN

- 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 Ian O'Malley against the decision of Cheshire East Council.
 - The application Ref 19/0178N, dated 13 January 2019, was refused by notice dated 20 March 2020.
 - The development proposed is described as "the site is currently an extensive garden to the side of 27 Park Road, the proposed development is for a granny annex in keeping with our existing bungalow and neighbouring bungalow at 25 Park Road".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has drawn to my attention to the Council not making its decision within the statutory eight week timescale. Whilst that is the case, the evidence is such that the Council did make a decision prior to the appeal being lodged. Consequently, I have not determined this appeal on the basis of the Council failing to make a decision.
3. The appellant has also made reference to concerns about the Council not working proactively with them, incorrectly sending emails to another applicant and not responding to emails. These are not considerations which go to the heart of the planning merits of this appeal. Consequently, I have not considered these matters any further.

Main Issue

4. The main issue is whether or not the occupiers of the proposed residential accommodation would be overshadowed by surrounding protected trees and, if so, whether there would be consequent pressure to fell or undertake works to such protected trees in order to achieve sufficient levels of light penetration and the effects of any such possible felling/works on the character and appearance of the area.

Reasons

5. The appeal site forms part of a large garden area associated with a dormer bungalow known as 27 Park Road. It is not entirely clear whether the proposed "granny annex" would in fact be a self-contained and independent dwellinghouse, although I note that the appellant's design and access

statement indicates that it would *"initially be occupied as a home for our parents who are now in their 80s and we'd like to have them close by to support them in their own home for as long as possible"*. This is not in any event a determinative matter. The design and access statement also states that *"a driveway using no-dig will allow access from Park Road to the granny annex front door, again to protect trees"*.

6. The proposed building would be smaller than No 27 Park Road, would have the appearance of a bungalow, and would be positioned close to the boundaries with No 25 Park Road and No 51 Murrayfield Drive where there are either mature trees or vegetation. There are three protected oak trees on the appeal site, immediately to the south of the proposed building. Both the site and the adjacent gardens contain a number of mature trees protected as part of the Nantwich Rural District Council (Willaston Hall) Tree Preservation Order 1965. Such trees contribute positively and distinctively to the verdant character and appearance of the area.
7. The three protected oak trees are positioned to the south of the appeal building and there are mature trees in the garden area/alongside the common boundary with No 25 Park Road, albeit some distance away from the proposed annex. I visited the site on a sunny day and hence I was able to consider the amount of sunlight that was penetrating the garden, including the part which would include the appeal building. Given the position, height and extensive leaf canopy of these trees, I could see that there was limited light penetration into the garden, including the part where the annex would be located. Indeed, large parts of this garden were in shade.
8. I do acknowledge that light penetration would not be a significant issue in the autumn and winter months when the deciduous trees were without leaf. Nevertheless, for a significant period of the year the occupiers of the annex would not be afforded acceptable amounts of light penetration into the lounge, kitchen or outside garden space for large parts of the day. Consequently, I consider that owing to the position of the proposed development the occupiers of the appeal building would be the subject of a very dark and oppressive living environment.
9. In this case, I agree with the Council that if this appeal were to be allowed, within a short period of time it would be very likely that the occupiers of the building would want to apply to fell or to undertake works to the surrounding protected trees. In such circumstances, the local planning authority would be under some pressure to give consent to fell or lop protected trees taking into account the need to achieve reasonable living conditions for occupants of the building. I consider that any resultant pressure to fell or to undertake works to protected trees would, in time, seek to unacceptably erode the significant amenity value afforded by these trees to the overall character and appearance of the area.
10. I acknowledge the appellant's comment that *"the trees subject to the TPO have been in our garden for almost 30 years, during this there has been no requests for pruning or felling of trees, other than one tree with a severe wound"*. Whilst I have no reason to doubt that this has been the case, the appeal proposal would nonetheless change the existing site conditions at No 27 Park Road in so far that it would include additional residential accommodation on the site which would be in close proximity to nearby mature trees.

11. I acknowledge that the appellant has submitted an Aboricultural Impact Assessment (AIA) as part of the planning application submission. However, this is dated 24 May 2016 and relates to a different development proposal.
12. In this case, I do not have adequate information before me to demonstrate that in terms of the position of the proposed residential unit, or the proposed and separate access, the development would not cause harm to the health and longevity of nearby trees. Therefore, my above concerns in respect of the likely adverse effect of the development on protected trees is compounded by the fact that the appellant has not submitted an up to date tree survey/AIA, has not shown the full extent of the position of the proposed access driveway, or professionally demonstrated to my satisfaction that in this case a 'no dig' driveway solution would be capable of not causing harm to surrounding trees. Whilst this may be a matter that would be capable of being resolved, this would not in any event alter or outweigh my conclusion on the main issue.
13. For the reasons outlined above, I conclude that the proposal would cause significant harm to the living conditions of the occupiers of the appeal building in terms of overshadowing and hence insufficient levels of light. Therefore, and if planning permission were to be approved for the development, it is likely that there would be pressure to fell or undertake works to trees which have significant amenity value thereby unacceptably eroding the character and appearance of the area. To this extent, the proposal would not accord with the amenity, tree or character and appearance requirements of saved policies BE1 and NE5 of the Crewe and Nantwich Replacement Local Plan 2011 and policies SD2 and SE5 of the Cheshire East Local Plan Strategy 2017. Therefore, the appeal should be dismissed.

D Hartley

INSPECTOR