



Appeal Decision

Site visit made on 21 September 2020

by Jonathan Manning BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2nd October 2020

Appeal Ref: APP/V1260/D/20/3249092

166 Fairmile Road, Fairmile, Christchurch, BH23 2LW

- 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 Charles Levey against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref 8/19/1444/HOU, dated 8 November 2019, was refused by notice dated 5 February 2020.
 - The development proposed is construction of additional driveway access across roadside verge and provision of new dropped kerb at road edge to supplement existing driveway and allow access/egress in forward gear.
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Decision

1. The appeal is allowed and planning permission is granted for construction of additional driveway access across roadside verge and provision of new dropped kerb at road edge to supplement existing driveway and allow access/egress in forward gear at 166 Fairmile Road, Fairmile, Christchurch, BH23 2LW, in accordance with the terms of planning application ref: 8/19/1444/HOU, dated 8 November 2019, subject to the planning conditions in the attached schedule.

Main Issue

2. The main issue of the appeal is the effect of the proposal on the retention and long-term viability of the protected oak tree.

Reasons

3. The appeal site is located along Fairmile Road and accommodates a detached dwelling that is set back from the highway behind a grass verge. The appeal dwelling is currently served by a tarmac driveway and there is a gravelled area directly in front of the property providing parking. Within the appeal property's front parking/garden area there is a large oak tree that is protected by Tree Preservation Order (TPO) No 32, dated 1982. I observed that the tree makes a positive contribution to the character and appearance of the area.
4. The scheme would provide for an additional driveway and dropped kerb. It was evident from my site visit that turning space within the front parking/garden area is restricted by the oak tree and therefore vehicles may have to reverse back onto the highway. The additional driveway would allow a one-way in and one-way out arrangement, resulting in vehicles being able to exit the property in a forward gear.

5. The majority of the proposed driveway would be located within the Root Protection Area (RPA) of the oak tree. The Council has several concerns with regard to the effect of the proposed development on the protected oak tree. The reason for refusal can be split into three areas.
6. Firstly, it is suggested that the ground works that have already taken place within the oak tree's RPA, have reduced the favourable growing conditions of the oak tree and any further ground works will put the tree under increased pressure.
7. I understand from the appellant's evidence that a previous application for a tarmac driveway was refused on similar grounds. However, this scheme now proposes to construct the additional driveway with grasscrete blocks rather than tarmac. I am mindful that grasscrete 'a no dig' method is often used to construct surface structures within RPAs to minimise any potential impacts on tree roots. I accept the Council's view that the RPA has already been affected by the removal of the grassed area at the front of the house and through the compaction of the grass verge. However, I consider that the proposed no-dig and permeable method of construction would ensure that there would be no unacceptable further impacts on the RPA of the tree and its long-term viability would not be impacted any further than it already has been.
8. The Council's officer report has questioned the long-term usability of grasscrete blocks. However, the highway officer has not raised any similar concerns and there is no evidence before me to suggest its use for this purpose is unacceptable. Further, I see no reason why the driveways long-term usability would not be maintained in a similar manner to that of a tarmac or paved driveway by the appellant or their successor(s).
9. Secondly, the Council are of the view that there is the potential of root damage, if appropriate measures are not implemented and supervised closely, during the installation of the driveway. I am mindful that protection measures and the supervision of the construction by an appropriately qualified Arboriculturalist can be secured by a planning condition.
10. Thirdly, the Council has taken the view that the use of the drive could result in requests to fell or severely prune the tree. It was clear from my site visit that the canopy of the oak tree already overhangs the majority of the front parking/garden area. I am not of the view that the additional driveway would lead to any greater pressure for felling or pruning than currently already exists. In addition, the Council has noted that the turning area around the base of the tree will be tight and there will be pressure to further reduce the bank on which the tree sits. However, I consider the scheme is more likely to reduce such pressure, as vehicles would no longer seek to try and turn within the front parking area, which is currently restricted by the bank on which the tree sits.
11. Given all of the above, I consider that the scheme would not affect the retention or long-term viability of the protected oak tree. The scheme therefore complies with Policies HE2 and HE3 of the Christchurch and East Dorset Local Plan – Part 1 Core Strategy (2014).

Conclusion and Planning Conditions

12. For the reasons given above, and having regard to all other matters raised, I consider that the scheme complies with the development plan when considered

as a whole and the appeal therefore succeeds, subject to necessary planning conditions.

13. I have considered the Council's suggested conditions against the tests set out within the Framework and the advice provided by the Government's Planning Practice Guidance (the PPG) and have amended them where required. As well as the standard time limit condition (1), I consider that a condition (2) is necessary to ensure the development is undertaken in accordance with the approved plans to secure certainty.
14. Conditions (3) and (4) are necessary to ensure that there would be no adverse impacts on the protected oak tree. Given my findings above, I have amended condition (3) to secure the supervision of the construction works by a suitably qualified Arboriculturalist.
15. The Council has suggested in their questionnaire that a condition is needed to secure matching materials. However, given the nature of the scheme and the requirements of condition (3) I do not consider this necessary. Further, it has been requested that an informative be included that would require the appellant to liaise with the appropriate Council service unit with regards to the works to create the access, including the creation of the dropped kerb access and for final approval of the materials to be used on the adopted highway. Whilst informatives are not attached to appeal decisions, I consider that such details are necessary to make the development acceptable in planning terms and I have therefore amended condition (3) to include them.
16. Condition (3) is a pre-commencement condition, I am satisfied that this is necessary to make the development acceptable in planning terms and it would have been otherwise necessary to refuse planning permission.

Jonathan Manning

INSPECTOR

Schedule of Planning Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan Ref '4937 6.c', dated March 2019 and Tree Protection Plan and Arboricultural Method Statement Ref 'Plan TC1', dated November 2019.
- 3) Notwithstanding details already submitted within the above plans and Arboricultural Method Statement, no development shall commence on site until: the final design and specification of the driveway, including cross sections showing the existing and proposed levels; dropped kerb; and the details of a suitably qualified Arboriculturalist to oversee the construction works has been submitted to and approved in writing by the Local Planning Authority, in consultation with highways. The driveway shall then be installed as per the approved documents.
- 4) Before any equipment, materials or machinery are brought onto the site, a pre-commencement site meeting between the Tree Officer, Arboricultural Consultant and Site Manager shall take place to confirm the methods of protecting the oak tree during the development in accordance with the Arboricultural Method Statement. The tree protection measures shall be implemented as agreed before any equipment, materials or machinery are brought onto the site for the purposes of the development. The tree protection shall be retained until the development is complete and nothing shall be placed within the fencing, nor shall any ground levels be altered or excavations made without the written consent of the Local Planning Authority.