



Appeal Decision

Site Visit made on 17 November 2020

By A Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2020

Appeal Ref: APP/W4705/W/20/3257670

58 Ben Rhydding Road, Ilkley LS29 8RN

- 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 Darren Bye (Sharrock Construction Ltd) against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 20/01162/FUL, dated 23 March 2020, was refused by notice dated 17 June 2020.
 - The development proposed is demolition of the existing detached house and construction of two four-bedroomed detached dwellings (Plots 1 and 4) and a pair of two four-bedroomed semi-detached dwellings (Plots 2 and 3).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are the effect of the development on (i) the character and appearance of the area; and (ii) the trees covered by a Tree Preservation Order (TPO).

Reasons

Character and appearance

3. Ben Rhydding Road is characterised mostly by detached dwellings that are set back from the road within large plots with mature trees and garden planting, giving the street a spacious, verdant character. These attributes add positively and distinctively to the character and appearance of the area.
4. No 58 is typical of this prevailing character, comprising a detached house and single garage within a large elevated plot. The boundary to Ben Rhydding Road is formed by a low stone wall with a dense hedge and some moderate size trees behind it. A group of large trees along the eastern boundary with Rombalds Lane are covered by a TPO.
5. In the context of this distinctive pattern of development, the replacement of the existing house and garage with four houses arranged in three large closely-spaced buildings across the site would appear out of place, particularly so given their narrow plot widths, height and also how dominant they would appear in the street. Their dominance would be particularly evident from the west due to the deep open frontages of the neighbouring houses and the proximity of the proposed house on plot 1 to the west boundary. The diminution of the landscaped frontage together with the cumulative amount of

paved parking areas and multiple driveway entrances is another factor of how the proposal would be incompatible with the positive characteristics of Ben Rhydding Road.

6. Specific details of landscaping could be secured by a condition, but the Council's Supplementary Planning Document 'Homes and Neighbourhoods' 2020 (SPD) advises that landscaping should be an integral part of the design, not left to an afterthought. Moreover, the opportunities for any meaningful planting at the front would appear to be limited, particularly on plots 2 and 3. Whilst a hedge could be reintroduced behind the retained parts of the front boundary wall, it would be in short broken sections. Therefore, even allowing for provision of landscaping, this would in all likelihood be ineffective in mitigating the harmful impact of the development on the street scene.
7. Overall, the appearance would be of a dense and imposing form of development that would undermine the distinctive character of the area, appearing at odds with the features which make it a high quality place.
8. In reasoning the above I have taken account of the housing development opposite at Thimblestones Court and the infill house at 74 Ben Rhydding Road, where in both cases, the houses are uncharacteristically close together with hardsurfacing at the front. I do not know the circumstances which led to these developments being accepted; however, they are in the minority and thus exercise only a limited influence on the character and appearance of the area. Furthermore, the houses in Thimblestones Court are located on the lower side of the road and are set back much further within the site behind some mature roadside trees, which reduces their prominence in the street scene. In any event, the presence of these other developments is not a reason, on its own, to allow unacceptable development. I am required to consider the appeal on its own merits and I have found that it would cause harm for the reasons set out above.
9. I therefore conclude that the development would cause significant harm to the character and appearance of the area. This is contrary to Policies DS1, DS2, DS3 and SC9 of the Bradford Core Strategy 2017 (CS). Together, these policies seek development that is appropriate to the local context and responds to distinctive features and the existing positive patterns of development which contribute to the character of the area. I have also afforded some weight to the SPD due to its role in supporting the relevant development plan policies and I find conflict with its guidance on landscaping and ensuring that parking does not dominate the front of houses and the street scene.

Effect on protected trees

10. The five trees identified for removal to accommodate the development are not covered by the TPO. However, the development on plot 4 would be very close to the protected trees along the east boundary. These trees contribute positively to the quality and verdant character of the site and the wider area.
11. The Arboricultural Method Statement (AMS) identifies incursion into the root protection areas (RPA) of two category A trees, identified as T7 (Oak) and T11 (Horse Chestnut), but suggests the nature of the incursion would be negligible. However, it is not clear how this conclusion has been reached as there is no assessment of the effect of the development on the protected trees. Moreover, whilst Section 4.2 of the AMS states no ground level changes are required

within the RPA of any tree, the cross section drawings show that the ground level will in fact be reduced, including where incursion into the RPAs is indicated and very close to the RPAs of the other protected trees.

12. Thus, whilst the AMS sets out tree protection measures during the construction period, I am not satisfied that it has been demonstrated that the proposal would not result in the loss of, or damage to trees covered by a TPO. In addition, no evidence has been presented that would indicate that there is an overriding justification for development within the RPAs.
13. I have further concern over the future relationship between plot 4 and T11, a mature Horse Chestnut. The size and location of T11 is such that it would likely limit the amount of available daylight and sunlight to the rear patio and also to the south and east facing windows serving the main living accommodation. Under these circumstances, there is a reasonable likelihood that the occupants would seek an improvement, which could be by significantly pruning the tree or by exerting pressure on the Council to have the tree felled. Whilst the Council would be able to assess any such applications, such factors should be taken into account in the design process to limit potential conflict at the outset and maximise the chances of successful tree retention. In my view, the chances of successful tree retention are reduced once a development is in place.
14. I have noted the comments of both parties regarding unauthorised tree removal and replanting requirements; however, those matters are outside of the scope of this appeal so have not been determinative.
15. Drawing these matters together, I conclude that it has not been demonstrated that the development would not result in the potential loss of, or damage to trees covered by a TPO. This is contrary to Policies DS2, EN2 and EN5 of the CS, which require important landscape features, including protected trees, to be retained and protected from development.

Other Matters

16. The appeal site is near to the South Pennine Moors Special Protection Area (SPA), which is a European site of nature conservation importance subject to statutory protection. The proposal was not accompanied by any assessment of the impact on the SPA and I am unable to determine that the Council has carried out an appropriate assessment (AA) to ensure compliance with the Habitats Regulations. Thus, had the development been considered acceptable in all other respects it would have been necessary for me to complete an AA as the competent authority. However, as the appeal is being dismissed on other substantive grounds, this is not a matter which needs to be addressed further here.
17. I have noted the representations from interested parties on matters not covered in the main issues, but as I am dismissing the appeal for other reasons it is not necessary to explore these matters any further as it would not alter the appeal outcome.

Planning Balance

18. The Appellant's submissions indicate that the Council has a substantial shortfall in its 5-year supply of deliverable housing sites. Although the evidence referred to is not before me, it has not been disputed by the Council. Consequently,

because of the provisions of footnote 7, paragraph 11d) ii of the National Planning Policy Framework (the Framework) should be applied.

19. I have found that the proposal would cause harm to the character and appearance of the area. In addition, it has not been demonstrated that the proposal would not result in the potential loss of, or damage to trees covered by a TPO. The proposal conflicts with CS Policies DS1, DS2, DS3, SC9, EN2 and EN5 in these respects. These policies are consistent with Section 12 of the Framework in achieving well-designed places and therefore, even taking account of the Council's housing land supply position, this conflict should be given significant weight in this appeal.
20. Set against the harm identified, the proposal would deliver housing in a location accessible to schools and other facilities. However, while all dwellings make an important contribution to housing supply, given the modest scale of development the contribution of four dwellings would be commensurately modest. There would also be limited social and economic benefits from support for local services and construction.
21. Council Tax payments and a new homes bonus would stem from the new dwellings; however, Council Tax is not a benefit and no schemes on which the bonus would be spent have been identified. It would not be appropriate to make a decision based on the potential for the development to raise money for the Council in the absence of evidence to demonstrate how that money would be used to make this particular development acceptable in planning terms¹. As such, these factors carry neutral weight in this appeal.
22. Overall, I find that the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

23. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

A Caines

INSPECTOR

¹ Planning Practice Guidance Paragraph:011 Reference ID:21b-011-20140612