



Appeal Decision

Site Visit made on 16 February 2021

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 March 2021

Appeal Ref: APP/Q3115/W/20/3262212

12 Norreys Close, Didcot, OX11 0AS

- 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 Ms Briony Malden against the decision of South Oxfordshire District Council.
- The application Ref P20/S2483/FUL, dated 10 July 2020, was refused by notice dated 22 September 2020.
- The development proposed is the construction of a new two bedroom house.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed house on the character and appearance of the area and in particular the effect on trees the subject of a Tree Preservation Order (TPO).

Reasons

Background

3. The existing property of No. 12 lies at the end of a short cul-de-sac of semi-detached properties and it has a large rear garden in a 'kite' shape with a group of mature oak and other trees along the south-eastern boundary. These are the subject of a TPO. It is proposed to sub-divide the rear garden and erect a small detached two storey, two bedroom house.
4. I note that a previous similar scheme for a detached house on the site was refused by the Council and an appeal was dismissed¹. The inspector concluded that the siting of the proposed house and garden would be overshadowed by the trees and would not result in suitable living conditions for the occupiers. He also found that the future of the trees would be threatened by pressure from the subsequent occupiers of the house, although the root protection area would be adequately protected by special measures during the construction phase. The current scheme makes revision to the size and siting of the house to try and overcome these objections.

Effect on character and protected trees

5. In assessing this issue, I have had regard to the Assessment undertaken by the appellant's Arboriculturist. The assessment of the protected trees, which are classed to be of moderate quality, includes their position depicted on a plan

¹ Under ref. APP/Q3115/W/19/3236343

- and the extent of their canopies, which from my observations on site appears to be accurate, and the plan also sets out the 'root protection area' (RPA).
6. Although the proposed scheme involves the creation of two parking spaces and the erection of the dwelling partly within the RPA of oak trees, having regard to the Arboriculturist's evidence, I am satisfied that there are specialist building techniques available which could enable the development to take place physically without harming the trees.
 7. However, even though a minor repositioning in the siting of the dwelling is proposed, I have concerns that its occupation would still give rise to pressure on the trees from the subsequent occupiers. The trees would overshadow much of the small garden allocated to the new property and the main aspect to the proposed living room would look towards the line of oak trees and their canopies which extend to a height well above the proposed house. From my observations at the site visit and the orientation of the land, I consider that the general environs of the proposed house would be dark and gloomy. As such I agree with the Council that there is likely to be pressure to substantially reduce the height and crown of the trees to let more light into the property and garden and reduce the effects of tree litter falling onto parked cars.
 8. The appellant's arboriculturist refers to the legal protection afforded by the TPO regulations to protect the trees and to studies on the results of TPO applications which show that pressure from occupiers for tree work can be resisted by a Council. Nevertheless, I note that in relation to this site, the Council refers to previous requests from the then occupiers of the existing property to carry out work to the trees to address problems of shading and bird fouling. Clearly the physical relationship between the dwelling and the trees and the degree to which the garden is overshadowed by the trees was much greater then compared to the present proposal to annex part of the garden to form the new house.
 9. Taking account of all matters related to the trees and my observations on site, I find that the residential environment of the proposed house would be dominated by the close presence of the existing oak trees to such an extent that the future well-being of the trees would be likely to be put at risk. The oak trees subject to the TPO make a significant positive contribution to the character and appearance of the area and their loss or diminution would harm this distinctive form. As such the proposal would not accord with Policy CSEN1 of the Core Strategy and Policy C9 of the Local Plan in terms of the protection of important landscape features.

Other Matters

10. In addition to the main issue, local residents also raise other objections to the proposal. Although there is concern expressed about flooding there is little evidence before me to show that this is a significant local problem that the proposal will make worse or that the drainage of the site cannot reasonably be dealt with by the imposition of conditions. In terms of parking and traffic generation, the proposed scheme makes provision for parking within the site for both the existing and proposed dwellings. Although the manoeuvring space would be tight, the location of the site at the end of a cul-de-sac means that such manoeuvring would be unlikely to harm highway safety. I have therefore not been able to give these concerns the same weight as the main issue. People also say that the trees provide a wildlife habitat especially for birds and

that this habitat would be threatened. Although there is no formal wildlife designation applicable to the site, I have considered the importance of the retention of the trees for their overall amenity value.

Planning balance

11. On the main issue I have found that the new dwelling proposed would be likely to result in pressure to reduce or remove the trees covered by the TPO because they would dominate the residential environment of the new property. The future well-being of the trees would be likely to be put at risk together with the contribution they make as landscape features to the character and appearance of the area. The proposal would conflict with the relevant policies in the development plan as stated above.
12. These factors constitute significant adverse effects but have to be balanced with the benefits of development. The appellant points out that within the development plan the majority of new housing will be found in Didcot on suitable infill and redevelopment sites. Moreover, local policies and the National Planning Policy Framework (the Framework) also seek to ensure that new development makes an efficient use of land.
13. Nevertheless, it has not been shown that the Council's delivery of new housing land is substantially deficient at the moment. The Framework emphasises in paragraph 170 that planning decisions should enhance the natural and local environment and recognise the benefits from natural capital including from trees. In this case, the benefits of securing an additional dwelling on the appeal site are not so great as to outweigh the local harm that the proposal would be likely to cause.
14. I find that the other considerations which arise do not outweigh the conflict with the development plan and this indicates that the appeal should not be allowed.

Conclusion

15. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR