
Appeal Decision

Site visit made on 8 April 2021

by R Bartlett PGDIP URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2021

Appeal Ref: APP/J1915/W/20/3259032

Falkland, 70A High Street, Buntingford, Hertfordshire, SG9 9AH

- 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 Richard J and Mr Paul T Borsberry against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/0901/FUL, dated 7 May 2020, was refused by notice dated 9 July 2020.
 - The development proposed is erection of two detached houses and double garages and associated external works and soft landscaping.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on:
 - Existing trees that contribute towards the character and appearance of the Buntingford Conservation Area;
 - Biodiversity; and
 - Highway safety with particular regard to parking, turning and the storage of refuge.

Reasons

Trees and Conservation Area

3. The site lies within the Buntingford Conservation Area (BCA). Accordingly the removal of or works to trees within the site require consent. The proposal seeks to remove one tree and to pollard two others. The council, despite finding that the trees on the site as a whole contribute towards the amenity of the BCA, has not made a Tree Preservation Order (TPO). Based upon the evidence before me and my own observations on site, I would concur that the trees at risk of harm from the development do not appear to be of sufficient quality to warrant a TPO.
4. The trees are visible in public views from the access road to the site, the footpath to the north and from Bridewell Close to the east. Some appear more visually pleasing than others and some may well benefit from being replaced with alternative species. However, as a group, the trees add value to the character and appearance of the BCA.

5. Neither party has provided me with any professional assessment of the existing trees setting out their species, age, quality, condition, remaining lifespan or root protection areas. Nor have any management or mitigation measures been submitted. Although relevant development plan policies permit the removal of trees subject to suitable replacement planting, given the limited information before me, I cannot be sure that more trees than suggested would not be harmed by the proposed development.
6. The appellant has submitted a plan that identifies the location of the existing trees to be retained, the trees and hedging proposed to be removed and pollarded and some new tree and hedge planting, comprising a mixture of Beech and Ash. However, little or no consideration has been given as to how the retained or replacement trees would successfully co-exist with the proposed development. Given the proximity of the trees proposed to be retained and planted, to the proposed dwellings, it is likely that many of these could be harmed during construction and the laying of services or could come under pressure to be felled by future occupiers of the houses.
7. There is a statutory duty under section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas.
8. I therefore conclude that in the absence of an arboricultural survey and detailed landscaping plan to demonstrate that the removal or replacement of the trees would preserve or enhance the long term character and appearance of the BCA and to demonstrate that the development would not increase pressure to remove further trees from the site due to their impact on the living conditions of future occupiers of the proposed dwellings, the proposal conflicts with policies HA4 and DES3 of the East Herts District Plan (October 2018). These policies require new developments in conservation areas to preserve or enhance their character and appearance and to demonstrate how they will retain, protect and enhance, or suitably replace, existing landscape features of amenity value.

Biodiversity

9. The site currently forms part of a large domestic garden, which is lawned and contains a variety of shrubs, mature trees and hedge planting. The proposed development would result in a large proportion of the garden being replaced by two substantial dwellings, two detached double garages and an extensive area of hard surfacing. Whilst there is no evidence to suggest any protected species would be harmed or that an ecological survey is necessary for such a small scale proposal, the uncertainty about the long term future of the trees makes it difficult to balance the true biodiversity losses and gains. An arboricultural survey and detailed landscaping scheme would have assisted in this matter. As already mentioned above, it is considered likely that more trees than predicted by the appellant are likely to be lost as a result of root damage during the construction phase and/or as a result of pressure from future occupiers. Accordingly the level of enhancement required to compensate for these losses would potentially be greater than that put forward in the submitted plans and Design and Access Statement.
10. I therefore conclude on this matter that insufficient information has been provided to demonstrate that the proposal would comply with policy NE3 of the East Herts District Plan (October 2018) or policy HD5 of the Buntingford

Community Area Neighbourhood Plan (2014-2031). These policies seek to ensure that development enhances biodiversity, creates opportunities for wildlife and minimises the loss of garden space, which would be harmful to its ecological or landscape value.

Highway Safety

11. Based upon the plan included at Appendix C of the appellant's statement, each of the dwellings would have parking for 4 cars, that is assuming the garages were each used to park 2 cars and a car was parked on the drive, which would restrict turning. I have not been provided with a copy of the council's parking standards SPD or the age and status of that document. However, details of that guidance are included in the council's report. Policy T1 of the Neighbourhood Plan requires 4 bedroom houses to have a minimum of 4 parking spaces. It specifies that for a garage to be classed as a parking space it should be at least 3m wide by 6m long. Based upon this the garages proposed could only realistically be classed as providing one parking space each.
12. Due to the dwellings taking up the width of the plot and the detached double garages being located in front of them, there is very little space for manoeuvring. I acknowledge that a turning head is proposed and that traffic at the end of the cul-de-sac would be very limited, however, vehicles having to reverse out of the plots and manoeuvre in the turning head, which is very close to living room windows in the existing bungalow, is far from ideal. There is also no space for visitor parking, albeit the site is in an accessible location close to the town centre and off-site parking is available nearby.
13. I note the comments about fire appliance access but this is a matter for building regulations and my understanding is that alternative solutions are available such as installing sprinkler systems. According to the submitted Design & Access Statement such a system would be installed in each of the new dwellings.
14. Refuse storage would be provided on each of the plots and there is also space available, approximately half way down the access road, that is within the appellant's ownership and could be used as a collection point on collection days. If this collection point is too far from the High Street, then future residents would have to wheel their bins the full length of the road. This is far from ideal but is typical in historic locations with narrow roads that are unsuitable for refuse vehicles. It would be an inconvenience to future residents but this is not a new cul-de-sac development and based upon my observations on site other residents in this area successfully manage to do the same. The access road is flat and well surfaced and the bins are wheeled. Collections presumably only occur every one or two weeks. Although the pull distance may be slightly further than recommended this would not to my mind justify the refusal of much need new housing. There is no evidence before me to suggest that the appellants bin storage proposals would be detrimental to highway safety or would warrant the refusal of this particular development.
15. Taking all matters into consideration, I conclude that given the constrained nature of the site and its access, the parking and manoeuvring space proposed would not be satisfactory and would conflict with policy T1 of the Buntingford Community Area Neighbourhood Plan (2014-2031).

Conclusion

16. For the reasons given above the appeal is dismissed.

Rachael Bartlett

INSPECTOR