



Appeal Decision

Site visit made on 8 June 2021

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 19th July 2021

Appeal Ref: APP/J0540/W/21/3270274

Land to the rear of 45 Peterborough Road, Castor, Peterborough PE5 7AX

- 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 Peter Huckle against the decision of Peterborough City Council.
 - The application Ref 20/00775/FUL, dated 11 June 2020, was refused by notice dated 15 December 2020.
 - The development proposed is the erection of one 4 bedroom detached dwelling with integral garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of the proposal is in a conservation area I have had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
3. The parish council's objection submits that the scheme conflicts with policies in the Castor Neighbourhood Plan (2017) (the CNP) which are not cited in the Council's Decision Notice. Accordingly, I have sought the views of the parties on the proposal's compliance or otherwise with the CNP, and have taken these into account in reaching my decision.

Main Issues

4. The main issues are the effect of the development proposed on:
 - The character and appearance of the area, including its effect on protected trees and on the living conditions of its future occupiers, and bearing in mind the special attention that should be paid to the extent to which it would preserve or enhance the character or appearance of the Castor Conservation Area; and
 - Highway Safety.

Reasons

Trees

5. The Castor Conservation Area (CA) covers an area encompassing Peterborough Road and its surrounding area, and includes a high number of mature trees.

As a result, natural form has a significant presence within the built environment, and this contributes positively to the appearance of the CA. Its heritage significance consequently derives in part from this factor.

6. The appeal site is garden land behind the host dwelling. A number of mature trees lie within the site. They are attractive specimens and whilst they lie outside the CA, they are within its setting as a result of their proximity to it. They make a moderate positive contribution to the appearance of the area and to the significance of the CA within glimpses from the road and views from surrounding properties. Several of the trees are protected by a Tree Preservation Order (TPO).
7. The scheme proposes the construction of four parking spaces associated with the proposed dwelling, two of which would lie between two of the protected trees, and which would be accessed by an adjacent drive and turning area. Permanent hard surfacing would be required for the parking and drive areas, and this would be constructed within the root protection areas (RPAs) of a number of the protected trees. BS 5837: 2012 (Trees in relation to design, demolition and construction) (the BS) sets out recommendations where permanent hard surfacing within RPAs is considered unavoidable. Whilst it may occasionally be possible to construct hard surfaces within the RPA of a tree, this needs special care and should be avoided wherever possible.
8. The appellant states that a minimum of two parking spaces are required for a dwelling of this size, according to the Council's requirements. The development would consequently meet these requirements in view of the two parking spaces adjacent to the dwelling, without the need for the additional two which would lie within the RPAs. Thus, the presence of the RPA parking spaces within the scheme cannot be considered to be unavoidable development.
9. As a result, the appeal does not demonstrate a need to construct the parking spaces within the RPAs of the trees. The proposed use of a surface design intended to minimise damage to RPAs and arboricultural/construction method statements consequently do not overcome my concerns in this regard, because the construction of the access/parking area is avoidable. Thus, the proposal does not comply with the BS guidance, and the appeal consequently fails to demonstrate that the development could be constructed without causing unacceptable harm to the RPAs of the protected trees.
10. Turning to the effect of trees on the living conditions of future occupiers of the development, the proposed dwelling and its garden would lie close to several of the garden trees. These are generally mature sycamores of a significant height which are in a fair-good condition, have a substantial life expectancy and are assessed as category B2 according to the tree survey. Trees within this category have a moderate value, a distinct landscape value and offer a 20-year contribution or more.
11. Although the scheme proposes the removal of a sycamore which lies close to the dwelling, the others would be retained. No significant works to these are recommended, and according to the tree survey they appear to be healthy specimens with a good life expectancy. Their visual contribution and any effects on occupiers are consequently likely to endure for some time.

12. The location of the proposed dwelling and its garden were subject to significant levels of shade cast by the trees on the day of my visit. Whilst this was only a "snapshot" in time, the trees would be likely to cast shade on the garden and several rooms of the dwelling for a significant proportion of the year due to their position south of the dwelling, their proximity, their height and their crown density. Such shade would occur both underneath the tree canopies and to areas outside these due to the differing angles of sunlight according to the sun's position in the sky.
13. The trees would consequently be likely to cause rooms to become unduly gloomy, and hence may give rise to concerns on the part of occupiers. Furthermore, as the trees are deciduous the level of shade cast would increase in summer when they are in leaf. The development's occupiers would be most likely to spend time in the garden in this season and hence to perceive the trees' shade as harmful to their enjoyment of the property due to a reduced level of sunlight and daylight.
14. Furthermore, I share the views of the tree officer that, in view of the characteristics of the sycamore species, honeydew/sap deposit from the trees to surfaces would increase the likelihood of occupier concerns due to its potential to cause mould. Given the number, the scale and the proximity of the trees concerned, it is most likely that such deposits would accumulate on nearby domestic and/or vehicle surfaces, with air movement causing this to occur at locations including those outside the canopy spread. This would cause harm to living conditions due to the need for the regular removal of resulting fungal growth, irrespective of whether these issues form a statutory nuisance. The reference within the Council's Tree and Woodland Strategy document to honeydew forming a "problem" raised by residents and that new planting will seek to avoid species likely to cause this supports the submission that the effects of honeydew can result in concern regarding living conditions.
15. The effects of the trees on the living conditions of occupiers of the new dwelling which I have identified above are likely to result in future requests to prune or remove the trees (an issue identified within the BS). Works to the trees, or their complete removal, are likely to be difficult for the Council to resist in compelling circumstances, irrespective of their TPO status. The proposal would consequently be likely to erode the moderate positive contribution to the significance of the CA which is made by the appeal site's trees. As a result, the scheme would result in less than substantial harm to the significance of the CA.
16. My concerns about the effect of the proposal on the trees are based on a judgment of the likelihood of such effects in the absence of substantive contradictory evidence. The issues identified are foreseeable in view of the circumstances of the site and the development proposed. Policy LP29 (Trees and Woodland) of the Peterborough Local Plan (2019) (the PLP) is consequently relevant to the proposal.
17. Thus, the proposed development would have an unacceptable effect on the character and appearance of the area and on the living conditions of its future occupiers, and would result in less than substantial harm to the significance of the CA. It consequently conflicts with Policy LP29 of the PLP, which states that where a proposal would result in the loss or deterioration of a tree protected by a TPO then permission will be refused unless there is no net loss of amenity value which arises as a result of the development. Further conflict exists with

Policy LP17 of the PLP, which requires development proposals to ensure that the needs of future occupiers are provided for and to include adequate amenity for living needs. The lack of a specific requirement within Policy LP17 for consideration of the effects of tree sap/honeydew on living conditions does not preclude such an assessment, as the policy requires the provision of “adequate amenity for the living...needs of prospective occupiers” and these issues can affect amenity. Additional conflict exists with the historic environment provisions of the National Planning Policy Framework (2019).

Highway Safety

18. Vehicular and pedestrian access to the new property would be via a drive which passes between No 43 Peterborough Road and the village hall. This is already in use by the vehicles associated with Nos 43 and 45 Peterborough Road and a bed and breakfast business behind these dwellings. The addition of vehicles associated with the proposed development would materially increase the vehicular use of the access.
19. The access crosses a footway. Visibility of any pedestrians using this is very restricted to exiting drivers due to the adjacent built form. The access consequently does not provide the 2m x 2m pedestrian visibility splays required by the Council. Vehicle bonnets would need to protrude onto the footway before any approaching pedestrians became visible, however cautiously drivers were to emerge. The ability of vehicles to be positioned centrally within the access would not overcome these issues due to the minimal additional time this would provide for drivers to register the presence of pedestrians.
20. The Council states that a pre-school uses the adjacent hall, and the parish council submits that the footway across the access is regularly used by children on their way to and from school. Thus, many of the pedestrians at this point will be more vulnerable users who would need to be clearly visible by drivers in order to be safe.
21. Furthermore, even if existing gates were removed, the width of the access is insufficient to accommodate simultaneous use by two vehicles and as such does not accord with the local highway authority's standard width requirements for such arrangements. At its narrowest point the access measures 4.4m in width. The Manual for Streets¹ states that a typical private car is 2.0m in width. In the absence of substantive contradictory evidence, I concur with the submission that the resulting margin of 40cm is insufficient to allow for space between and to the sides of two vehicles for them to pass safely. At such a width, and given the limited opportunities for turning/waiting on the drive, it is more likely that only one vehicle at a time would use the access. An arriving vehicle would consequently need to wait on the highway if a vehicle were exiting, or may reverse onto it if another vehicle were approaching on the drive.
22. Peterborough Road is the main street through Castor and it consequently carries regular traffic, albeit travelling at relatively low speeds. The additional waiting and reversing manoeuvres to which the proposal would give rise would cause harm to highway safety. This is because visibility is impeded in reversing manoeuvres and traffic waiting to turn within the carriageway would

¹ Department for Transport, 2007

- give rise to inconvenience which may encourage other road users to perform manoeuvres which increase risk, such as overtaking. Further risk would arise to pedestrians on the footway for the reasons identified above.
23. I have concerns regarding the proposed increase in use of the access due to the issues identified above.
24. It is suggested that a legal agreement to secure the cessation of the appellant's bed and breakfast business which shares the drive would render the proposal acceptable in highway safety terms. The implication is that the level of vehicular movements associated with the business are considered to be similar to those which the proposed development would attract, so that such an agreement would ensure that no increase in use of the access occurred. No such agreement has been provided with the appeal.
25. In any event, however, I am unconvinced that the vehicular movements associated with a small bed and breakfast, the occupancy of which is stated to be generally seasonal in nature and of short duration, would be comparable to those associated with a 4 bedroomed dwelling which would be in year-round occupation. In the absence of substantive contradictory evidence I consider that it is likely that the movements associated with the proposed dwelling would be significantly greater in number.
26. Thus, it follows that my concerns regarding the intensification of use of the access would remain even in the event of a suggested condition seeking to close the business use prior to the start of development. The condition would consequently fail to render the development acceptable and hence it would fail the policy test within the Framework concerning necessity.
27. Each proposal must be assessed on its own merits and hence the presence of similar accesses in the vicinity does not provide justification for the effect on highway safety which the exacerbation of use of the proposal's access would cause.
28. As a result, the proposed development would have an unacceptable effect on highway safety. It consequently conflicts with Policy LP13 of the PLP, which states that development should make appropriate provision for safe access to and from the site by all user groups. This is consistent with the provisions of the Framework, which sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. Additional conflict exists with Policy CH2(b) of the CNP, which sets out that proposals for new dwellings should ensure suitable and safe access for vehicles and pedestrians and should not result in an unacceptable impact on the village road network.

Other Matters

29. I have had regard to other matters raised, including concerns about the proposal's layout. However, as I am dismissing the appeal on the main issues for the reasons given above, I have not pursued these matters further.
30. The appellant has concerns regarding the Council's approach, however, these are not matters for this appeal, which I have determined on its planning merits.

Conclusion

31. I have found the proposal to cause less than substantial harm in respect of the heritage asset. I am required to give this harm considerable importance and weight. Furthermore, the proposal would unacceptably harm the character and appearance of the area and the living conditions of future occupiers of the development and would have an unacceptable effect on highway safety. I have identified no particular public benefits which weigh in favour of the proposal, and minimal other benefits.
32. Thus, for the reasons given above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR