



Appeal Decision

Site Visit made on 6 July 2021

by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2021

Appeal Ref: APP/F0114/W/21/3267381

**Garden Plot at Junction of Chapel Row and Dovers Lane, Bathford
BA1 7TQ**

- 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 Steve Speakman against the decision of Bath and North East Somerset Council.
 - The application Ref 20/00236/FUL, dated 21 January 2020, was refused by notice dated 6 November 2020.
 - The development proposed is Erection of a one bedroom detached house and installation of a temporary caravan for the duration of the works.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues in this case are the effect of the proposal on a nearby Copper Beech tree and its effect upon the character and appearance of the area including the Bathford Conservation Area (CA).

Reasons

3. The appeal site is located to the rear of properties fronting High Street on Chapel Row, which is a narrow street serving a number of residential properties. It is located within the Bathford CA which covers the historic core of the village and contains a fine range of properties, largely constructed from stone set on a hillside.
4. A number of individual trees are prominent features in the CA, and whilst located off the main thoroughfare through the village the Copper Beech in the garden of the Old School House, adjacent the site, forms a prominent feature which is visible through buildings on the High Street, from properties fronting Chapel Row, and from nearby dwellings within the vicinity of the site. This tree is in good health, as acknowledged by the appellant, is attractive and well-formed. It is in early maturity and there is no dispute that the tree will grow much larger than it is now under current conditions, thereby increasing its prominence. The tree makes a positive contribution to the character and appearance of the CA.
5. The appeal site is set over 2 levels, with the area with the storage building upon it being at a lower level than the ground upon which the Copper Beech is located. The ground with the greenhouse upon it is located at a similar level to the garden of the Old School House.

6. The new dwelling would be split level taking account of the change in levels across the site. It would be sited close to the party boundary of the garden of the Old School House, in close proximity to the trunk of the Copper Beech. Its lower section would be sited under part of the canopy of the tree.
7. Whilst there is no dispute that the localised ground conditions are likely to have affected the root growth of the Copper Beech, concentrating them in the garden of the Old School House, it is clear from the trial trench that the roots of the tree have extended into the appeal site. Whilst the number of roots within the trench was limited, it is likely, given the crown spread of the tree that its roots have spread elsewhere onto the appeal site beyond the trial trench. No substantive evidence has been produced to demonstrate that this is unlikely to be the case.
8. As a consequence, there would be a high probability that during the construction of the new dwelling that root damage to the Copper Beech would occur which could affect the health and longevity of the tree as a result. The appellant accepts that there are risks to the tree but considers that this could be controlled with careful management during the demolition and construction stages of the development. It follows therefore that potential for harm to this imposing tree exists, and without understanding where the roots of the tree are, the suggested mitigation may well not be possible, given the design of the scheme and that the tree is located outside of the control of the appellant thus any protection during construction could not be guaranteed. The retention of the boundary wall does not persuade me otherwise.
9. The tree would shed a significant number of leaves in the autumn which would be likely to cause nuisance to the intended future occupiers of the new dwelling, including through leaf litter in the garden and on the driveway and within the gutters/drains. Moreover, the tree would be likely to cast shadow over the dwelling and garden, making the indoor and outdoor space gloomy and unpleasant to use. Furthermore, safety concerns about falling branches would be an issue for future occupants given the closeness of the large tree to the dwelling, its garden space and parking areas. These matters would be likely to result in pressure for works to be undertaken to the tree including extensive pruning which would be likely to reduce its amenity value. Pressure may also be placed on the owner of the tree to remove it. Such pressures are likely to be greater associated with the new dwelling as opposed to the existing situation.
10. To facilitate the development the canopy of the tree would need to be pruned. However, such work is likely to be required in any event, given the overhanging branches of the storage building and greenhouse. Moreover, the amount of pruning required at this stage would be likely to be similar given the similar scale of the new dwelling relative to the existing buildings and structures on the site. Such work could be controlled by planning condition to ensure that the amenity value of the tree was not reduced.
11. In light of the above, and notwithstanding my conclusion in respect of the pruning of the tree to facilitate the development, I conclude that there would be an un-harmonious relationship between the tree and the development proposed which would harm the long term retention of this important tree. Damage to the roots of the tree and/or substantial alteration to, or removal of the tree as a result of pressure from future occupants would significantly harm the character of the area. The character or appearance the Bathford CA would

neither be preserved or enhanced as a result. Accordingly, the proposal conflicts with Policies NE6 and HE1 of the Bath and North East Somerset Local Plan 2011-2029 Core Strategy and Placemaking Plan District Wide Strategy and Policies Volume 1, which collectively seek to avoid any adverse impact on trees of landscape, historic and amenity value, amongst other matters, and for development to sustain and enhance heritage assets, including CAs.

12. The harm that would be caused to the character and appearance of the CA would be localised and would lead to less than substantial harm to the significance of this designated heritage asset. In accordance with paragraph 196 of the National Planning Policy Framework (Framework) this harm therefore needs to be assessed against the public benefits of the proposal.
13. The provision of a dwelling within a village close to services and facilities is a public benefit but given the quantum of development such benefit is limited. This matter does not outweigh the great weight that I am required to give the heritage asset's conservation. Accordingly, the public benefits of the scheme do not outweigh the harm that would be caused to the CA as a designated heritage asset. The proposal therefore also conflicts with the conserving and enhancing of the historic environment aims of the Framework.

Other Matters

14. I note the appellant has sought to work with the Council during the course of the planning application and his frustration with the requests to amend the scheme. However, these matters fall outside the scope of this appeal which I have determined on its merits.

Conclusion

15. For the above reasons and having regard to all other matters raised I conclude that the development is contrary to the development plan when taken as a whole. There are no material considerations to suggest a decision other than in accordance with the development plan and therefore the appeal is dismissed.

RC Kirby

INSPECTOR