The Planning Inspectorate

Appeal Decision

Site visit made on 5 July 2022

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 October 2022

Appeal Ref: APP/X4725/D/22/3297747
31 Station Road, Ossett WF5 8AY

- 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 Mrs V Senior against the decision of Wakefield Metropolitan District Council.
- The application Ref 21/02084/FUL, dated 13 August 2021, was refused by notice dated 10 February 2022.
- The development proposed is described as "to create a vehicular access by means of ornate period wrought iron electric gates and posts onto Station Road and disabled access 1 x T1 Sycamore removed

Decision

1. The appeal is allowed and planning permission is granted to create a vehicular access by means of ornate period wrought iron electric gates and posts onto Station Road and the removal of 1 x T1 Sycamore at 31 Station Road, Ossett, WF5 8AY in accordance with the terms of the application, Ref 21/02084/FUL, dated 13 August 2021, subject to the following conditions:

    1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

    2) The development hereby permitted shall be carried out in accordance with the following approved plans: Appendix A – Proposed Driveway; Appendix B – Location Plan; and Appendix C – Proposed Gates and Posts.

    3) No development shall commence until details of the materials to be used in the construction of the external surfaces and gates of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

    4) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

5) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of the development.

6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Procedural Matter

2. I have amended the description of development in my decision to that used in the decision notice and appeal form as it more accurately describes the development. The Council has referred in its officer report to the fact that the proposed plans were amended during the processing of the planning application to provide additional detail. I am therefore dealing with the plans that the Council considered when making its decision.

Main Issues

3. The main issues are:

- The effect of the development on the character and appearance of the surrounding area with particular regard to the Ossett Conservation Area (CA) including the effect on protected trees;
- The need for and benefits of the proposed access; and
- The effect of the proposal on ecological interests.

Reasons

Character and appearance

4. The appeal site is a large property set in a spacious garden within the CA. Station Road forms a main approach to the historic centre of Ossett. It has a predominantly residential character, and the properties are set back from the road, with trees and mature vegetation. This green approach contrasts with more urban appearance of the roads around the centre and positively contributes to the character and appearance of the CA. The appeal site is currently bounded by a stone wall along the Station Road frontage. The trees just behind the line of the boundary wall stand prominently close to the road and provide further enclosure of the site with the canopies particularly of these trees providing a softening of views towards the dwelling on the site. The trees and vegetation are inherently attractive and have a degree of special interest within the CA due to their softening of the built environment.

5. The proposal would involve the creation of an access. This would include the construction of walls on either side of the splayed entrance turning in towards the site, matching the materials used in the construction of the existing wall along Station Road. The new parts of the wall would terminate with large gate

posts with orbs on top which would be 5m back from the highway. The posts would support ornate metal gates.

6. The Council accept that historically there would have been an access from Station Road serving the property. They have not raised specific concerns regarding the form of the proposed access including the walls and gates. I am also of the view that the design of the access would reflect the scale and appearance of the existing wall. The gates and posts would respect the design qualities of the area. In these respects, the alteration to the Station Road frontage would respect the existing built features nearby which is one of the requirements of Wakefield Metropolitan District Council - Local Development Framework, April 2009 (LDF), Policy D9.

7. It is specifically shown that one tree currently behind the boundary of the appeal site would need to be removed to enable the construction of the access. That tree is marked 'T7' on the submitted Arboricultural Impact Statement (AIS). This tree helps to provide some softening of the site as explained above. It may take some years for that gap within the canopy to be infilled by the adjoining trees and I recognise the Council's point that removal of a central tree in this way would reveal potentially one-sided growth patterns. If the existing wall was being retained in the way it exists at this time, this gap would be conspicuous and would lead to what would be seen as an unusual gap in branches and foliage above the top of the wall. However, the creation of the access would bring about a very different set of circumstances and the retained trees on either side of that would frame the new opening. In that way, an increase in the gap within the canopy would not look as conspicuous. Together with additional planting as suggested in the AIS, the expansion of the canopy of the trees on either side would bring about a framing of the new entrance which would not look out of place along Station Road or the wider CA.

8. Additional safeguarding of the root systems of the retained trees would need to be undertaken and the appellant has suggested a cellular confinement system installed via 'no dig' techniques. The Council suggests that these systems can lose their effectiveness over time because their surfaces can become impervious. I am not provided with evidence on this matter and am aware that such systems are frequently used in such situations. Furthermore, a condition can be imposed to require further details are submitted of the tree protection measures.

9. In relation to the first main issue, the proposed development would not have a harmful effect on the character and appearance of the surrounding area. As such, with respect to my duties under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) this would preserve the character and appearance of the CA. Furthermore, the proposal would respect the character of the locality. As such in these respects the proposal complies with Policies D18 and D9 of the LDF. The proposal therefore would not lead to any harm to the significance of the CA as a designated heritage asset and so there is no need to carry out a balance with the public benefits of the proposal as set out in paragraph 201 of the National Planning Policy Framework (the Framework).

Need and benefits

10. The access is required for a member of the appellant's family who has suffered a major accident that they are still recovering from. This has resulted in mobility impairments.

11. The appellant's evidence is clear that in the longer term further works would be required to create a level, internal access. The precise details of those plans are not in front of me in this appeal and it is not clear that if further planning permission is required for them, that it would be forthcoming. However, the proposal would provide a much easier access directly to the front door of the property which would make the house more accessible. From what I saw when I visited, this would be a substantial improvement over the existing access arrangements for a person with mobility difficulties.

12. I therefore find that there is a need for the proposed access that would bring benefits to an occupant of the property. I attach moderate weight to the need for and benefits of the scheme.

Ecological Effects

13. The first reason for refusal refers to alleged non-compliance with LDF Policy D7 which relates to the protection of trees and woodland as important ecological asset as identified in the Wakefield District Biodiversity Report. I have no evidence with the appeal about the specific ecological value of the tree that is proposed for removal or the ecological benefits of the additional planting through any further landscaping.

14. The Council's reasoning within the Officer report cites criteria 2 as the relevant part of the policy. This, amongst other things, allows for the loss trees only when each of list of criteria are met. My reading of this is that all of these criteria need to be met for the policy exception to be accepted. To that end, it has not been demonstrated that the development cannot be reasonably redesigned or located on an alternative site or that any harm can be reduced to acceptable limits.

15. In relation to this main issue, on the basis of the evidence submitted, I cannot reach a firm view about the effect of the proposal on ecological interests. However, LDF Policy D7 is not complied with.

Planning balance

16. The proposal is acceptable with respects to the first main issue and complies with the development plan policies referred to by the Council in that respect. However, although the evidence about ecological interests is very limited, the requirements of LDF Policy D7 are not met and that policy is not complied with. The development plan as a whole is therefore not complied with in that limited respect.

17. I have had due regard to the public sector equality duty (PSED) set out under s149 of the Equality Act 2010. The proposed access is required to meet the needs of a person who has the 'protected characteristic' of disability for the purposes of the PSED. I am satisfied that the need for and benefits of the development would outweigh the harm it would cause to the ecological interests of the site, so long as conditions are imposed to bring the harm down to the minimum level with respect to protection of retained trees and further

landscaping taking place. It is necessary and proportionate to grant planning permission on that basis for the access in order to eliminate discrimination against and advance equality of opportunity for the appellant's family.

Conditions

18. I have imposed standard conditions relating to the commencement of development and to require compliance with the submitted plans to define the terms of the permission.

19. The Council's report suggests they are satisfied that the use of good quality materials is proposed, however specific details are not readily apparent. It is necessary for the details to be secured by condition to ensure the character and appearance of the CA is at least preserved.

20. While not suggested by the Council, the appellant's case makes clear they would accept conditions requiring an arboricultural method statement and landscaping of the drive. These conditions are necessary and reasonable to mitigate the effects of the development on the retained trees and of the loss of the sycamore.

Conclusion

21. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

J Downs

INSPECTOR