



Appeal Decision

Site visit made on 18 October 2022

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st October 2022

Appeal Ref: APP/D3125/W/21/3289460

Land Adjacent to Merton Cottage, Bampton Road, Aston, Oxon OX18 2BT

- 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 and Mrs R Owen against the decision of West Oxfordshire District Council.
 - The application Ref 21/01861/FUL, dated 17 May 2021, was refused by notice dated 16 September 2021.
 - The development proposed is erection of 2 bedroom detached cottage with associated parking.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the extent to which the proposed development would preserve or enhance the character or appearance of the Aston Conservation Area, with regard to the contribution made by the sycamore tree in the site.

Reasons

Significance of the conservation area and the amenity contribution of the trees

3. The appeal site is situated to the western edge of the Aston Conservation Area (ACA). There is very little information before me as to what the main parties consider to be the defining components of its character and appearance. However, from what I observed at the time of my site visit, the buildings within the ACA are generally residential in character and close to street frontages. Given the tight nature of development, trees and other planting are often found in more spacious plots, including those with deeper frontages.
4. The ACA has been subject of much change, not least through the development of Aston Pottery, to the north and east of the site, including its parking, but its landscaped grounds contribute positively to the ACA's setting. The development of housing to the south at St. Joseph's Court has also assimilated well into the southeast edge of the ACA.
5. Despite recent change through built form, as far as it relates to the appeal before me, I find the significance of the ACA to be principally derived from the contribution made by the architectural and townscape qualities of the buildings and their relationship with the streets and landscaping therein.
6. I note that the sycamore tree within the site, which is protected by a Tree Preservation Order, was the subject of a planning appeal in 2008 regarding its

removal. At the time the Inspector suggested the tree was prominent from numerous viewpoints and provides significant public amenity value. Given my observations regarding the prevalence of trees within the ACA, the visual prominence and aesthetic value of the sycamore tree contributes positively to its character and appearance.

Effect of the Proposal

7. The sycamore tree within the site is annotated on the application drawings, but the standard broadly round annotation does not reflect the canopy spread of the tree, which I observed to project some distance further beyond the front of Merton Cottage than presented on the drawings. Moreover, the extent of the Root Protection Area (RPA) shown on the Tree Constraints Plan contained in the appellants' Arboricultural Report is also not reflected in the drawings, as this is also much closer to Bampton Road.
8. The proposal is likely to require significant groundworks within the RPA of the tree, including for parking areas. I have been referred to the use of micro piles based on root investigation, but there is no substantive evidence as to how these would be specifically employed on site for the proposal. This includes their relationship to and the magnitude of other elements of the foundation design, shown in the illustrative material provided by the appellants, and existing and proposed ground levels. I cannot therefore be certain that these technical solutions would avoid some form of damage to the tree, including through effects such as soil compaction.
9. The proposed house would also come into closer contact with the tree than shown on the application drawings and it would dominate the north and west garden areas. While some natural shading can be a positive benefit to ensuring occupants are able to stay cool in hotter temperatures, the tree would be likely to constrain light penetrating into the garden areas and windows of the house adjoining them. They would therefore be in shadow most times of the day, throughout the year, when the tree is in leaf. Although the garden spaces could provide better living conditions for future occupiers than those experienced at Kingsway Cottages, this would not justify the harm that would result from the appeal scheme.
10. It is likely that the shading caused by the tree, together with leaf litter and perceived or actual hazards to the house in high winds, would be of nuisance to future occupiers. This is one of the principal reasons that buildings, especially residential properties, are not sited in close proximity to trees.
11. I do not dispute that it is good practice to manage trees, particularly to ensure their health in the long term, and that sensitive works should not compromise the visual amenity of trees, but the proposal would be so close to this particular tree that these would be likely to be ineffective in mitigating the harm caused by the tree to future occupiers.
12. While I have no reason to doubt that schemes for houses have been approved in Oxfordshire in closer proximity of trees, I have not been referred to any, so I am not able to make any meaningful comparisons. Similarly, there is no further information before me in relation to the trees within the site to the south and east, other than their categorisation, to understand why the Council may have approved their removal. There may also be legitimate reasons for sycamore trees being removed from Chimney Meadow Nature Reserve. However, I must

consider the appeal scheme on its own individual merits, having regard to its contribution to the character and appearance of the ACA.

13. Based on the evidence before me, there is a significant prospect that the ground works required to implement the proposal would have a harmful effect on the RPA and the long-term health and growth potential of the tree. The risk to the tree from potentially harmful works or removal is also not a generalised fear but a realistic and specific concern that would harm the character and appearance of the ACA.

Public Benefits and Conclusions on the Main Issue

14. The statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) is a matter of considerable importance and weight and paragraphs 197, 199 and 200 of the National Planning Policy Framework (the Framework) are also of paramount importance.
15. The proposal would be harmful to the character and appearance of the ACA, through potential loss of the sycamore tree within the site. This would have a negative effect on the significance of this designated heritage asset. In my view the harm that I have identified would be considerable but, nevertheless, equate to less than substantial harm to the significance of the asset. Paragraph 202 of the Framework and Policy EH9 of the West Oxfordshire Local Plan 2031¹ (LP) identify that harm should be weighed against the public benefits of proposals.
16. The Framework confirms the Government's aim to significantly boost the supply of housing. The contribution made by small and medium sized sites is important to achieving that aim. Bat and swift boxes would also be integrated into the design and external lighting designed to avoid illumination of the new roosting locations. These would amount to social and environmental benefits but would be limited in scale and kind due to the magnitude of the proposal.
17. The design of the proposed house would not, of itself, be harmful to the ACA's character and appearance, particularly in respect of its architectural detailing and the existing pattern of development. The positions of windows would also not lead to overlooking of neighbouring properties, and bins and cycles could be stored appropriately within the site. However, absence of harm associated with these aspects of the proposal would neither weigh in favour nor against the appeal scheme.
18. The public benefits I have outlined would collectively be of limited weight in the face of the harm that I have identified, but would not justify allowing a proposal that would fail to preserve the character and appearance of the ACA. Therefore, in accordance with policies of the LP and Framework, considered together, I am not persuaded that there would be wider public benefits of sufficient magnitude to outweigh the great weight to be given to the less than substantial harm I have identified to the ACA.
19. In light of the above, I conclude that the proposed development would fail to preserve the character and appearance of the Aston Conservation Area, with particular regard to the potential effect of the loss of the sycamore tree within the site. Hence, the proposal would not satisfy the requirements of the Act and it would conflict with the design and heritage aims of LP Policies OS2 and EH10 and paragraphs 197, 199 and 200 of the Framework.

¹ Adopted September 2018.

Other Matters

20. The Framework stresses the benefits of early engagement and of good quality pre-application discussion and the appellants submitted the proposal following consideration of such advice. Nevertheless, I have assessed the individual merits of the proposal afresh in light of the evidence before me.

Planning Balance and Conclusion

21. I have already identified the benefits of the appeal scheme as part of the assessment of public benefits in undertaking the necessary balancing exercise in relation to the heritage assets. In terms of harm, the proposed development would not comply with development plan policy in respect of harm to the character and appearance of the Aston Conservation Area, with specific regard to the potential effect of the loss of the sycamore tree within the site.
22. This leads me to an overall conclusion that the appeal scheme would not accord with the development plan, when considered as a whole, and I find that the adverse impacts of the proposal are matters of great weight against the grant of planning permission that outweigh the benefits identified.
23. The proposed development would be contrary to the development plan and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Accordingly, for the reasons given, I conclude that the appeal should not succeed.

Paul Thompson

INSPECTOR