



Appeal Decision

Site visit made on 5 October 2022

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2023

Appeal Ref: APP/L1765/W/22/3294220

44 St Cross Road, Winchester SO23 9PS

- 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 M and K Phillips against the decision of Winchester City Council.
 - The application Ref 21/01259/FUL, dated 7 May 2021, was refused by notice dated 12 October 2021.
 - The development proposed is sub-division of plot to create a new detached dwelling comprising a basement, ground and first floors.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. An additional drawing was submitted at the appeal stage¹, which contains computer generated images of the proposal in context. This drawing does not substantially alter the nature of the proposal, and I am satisfied that the parties' interests, including that of local residents, would not be prejudiced by the drawing being considered in this appeal. Therefore, I have considered the drawing as part of this appeal.

Main Issues

3. The main issues in this appeal are whether the proposed development would preserve or enhance the character or appearance of the conservation area, and the effect of the proposal on the protected tree on site.

Reasons

Conservation area

4. The appeal site comprises 44 St Cross Road (No 44), a 2-storey semi-detached dwelling sat within an irregularly-sized plot in a broadly residential area. The site is within the Winchester Conservation Area (conservation area). The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) provides at s72(1) that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
5. The conservation area covers a wide area, including much of the core of the city. The significance of the conservation area, as a whole, as a designated

¹ CGI proposals (drawing no. 878. 05)

heritage asset is derived predominantly from its abundance of well-maintained historic buildings, several of which are of exceptional historic interest (including those relating to religious, educational, and medical activities), and its numerous attractive and verdant residential streets which contain properties with a high standard of architectural design.

6. Given the particularly large size of the gap towards the front of the site between No 44 and 46 St Cross Road (No 46) in comparison with the generally narrower gaps between nearby properties along St Cross Road and Edgar Road, and noting that the text of the conservation area appraisal provided by the appellants does not specifically refer to such gaps, although the gap ensures that both No 44 and No 46 are each read as individual properties in the street scene, in my view it has not been demonstrated that the gap is especially characteristic of either the local area or the conservation area as a whole.
7. Considering this, and taking account of the historical evolution of the local area as detailed in the appellants' Planning, Design and Access Statement, including the common occurrence of piecemeal infilling in the locality (including 66 Edgar Road), the site contributes to the significance of the conservation area primarily by the distinctive late Victorian architecture and materials of No 44 and the presence of a majestic copper beech tree to the rear of the plot, which is visible both through the gap between Nos 44 and 46 fronting St Cross Road and from Edgar Road.
8. The proposal, relating to a detached dwelling which would comprise a basement and 2-storeys above ground level, would be positioned in the existing gap between Nos 44 and 46. The resulting dwelling would be considerably narrower and shorter than not only its immediate neighbours but also many of the other nearby properties in the vicinity, resulting in an incongruous appearance in terms of its scale and massing, which would not be off-set by the fact that the new dwelling would appear subservient to its neighbours in these respects.
9. Additionally, whilst the contemporary design ethos is noted, the austere, angular, largely box-like design proposed would bear little resemblance to the prevailing architectural styles in the locality and in marked contrast to the pitched roof forms which are common nearby, the new dwelling would have a flat roof. Although tile and slate roof finishes are present in the conservation area, the zinc cladding proposed for the first floor of the new dwelling would clash with the more restrained colour tones present on nearby properties, which would exacerbate the visual inappropriateness of the proposal in its context.
10. Taking all these factors together, whilst viewpoints of the proposed new dwelling along St Cross Road would largely be restricted to views looking to the south and the west, with limited views available from Edgar Road, and the dominant boundary hedge to the front of the site would be reinstated, the proposal would result in a visually discordant addition to the street scene of St Cross Road, and the new dwelling would appear cramped within its plot when viewed from St Cross Road. Consequently, the proposal would not accord with paragraph 6.5 of the High Quality Places: Supplementary Planning Document (adopted 2015) which provides that it is important for new development to be sensitively related to the scale and massing of neighbouring development.

11. As such, the proposal would unduly dilute the positive contribution that the period architecture of No 44 currently makes to the appearance of the conservation area. Whilst the majority of the copper beech tree would remain visible from most existing viewpoints, this would not alter the harm already identified.
12. The harm caused to the appearance of the conservation area would be localised, meaning that the proposal would cause less than substantial harm to the significance of the conservation area as a designated heritage asset, but even so, this harm is of considerable importance and weight. The National Planning Policy Framework (the Framework) advises that such harm should be weighed against the public benefits of the proposal.
13. In this regard, the proposal would provide one new dwelling in an established and accessible residential area, close to transport links and sport and recreational facilities, thereby supporting the Government's objective of significantly boosting the supply of homes and adding to the stock of family-sized dwellings in the local area. In doing so it would provide work for construction professionals and others involved in the development process. It is also intended that No 44 would be released to the market.
14. The Framework makes clear that great weight needs to be given to designated heritage assets' conservation. Taking all these public benefits into account, and considering that the proposal would result in the construction of only one new dwelling, collectively I give limited weight to all the public benefits of the proposal. I find that they do not, either individually or cumulatively, amount to public benefits which outweigh the harm that would be caused to the significance of the conservation area.
15. I have had regard to the quotes provided relating to appeal decision Refs APP/L1765/D/11/2161505 and APP/L1765/W/18/3193896 but as no plans or other documents have been provided, it has not been possible to make a meaningful comparison with the appeal proposal. I have also had regard to the series of photographs provided in the appellants' Planning Appeal Statement, and I recognise the principle that modern interventions can be used to protect and enhance period architecture in conservation areas. Nevertheless, as the photographs provide only a partial snapshot of the contribution that each site makes to the significance of the conservation area, and as limited analysis has been supplied comparing and contrasting these examples with the appeal proposal, whilst being of some relevance they are not sufficiently persuasive to cause me to alter my findings. Given this, none of these matters changes my findings given above.
16. I therefore find that the proposed development would not preserve or enhance the appearance of the conservation area. It would conflict with the second bullet point of Policy CP13 of the Winchester District Local Plan Part 1: Joint Core Strategy (adopted 2013) (JCS) which provides that, amongst other things, all proposals for new development should demonstrate that the proposal makes a positive contribution to the local environment.
17. In relation to this main issue, the proposal would conflict with the second bullet point of Policy CP20 of the JCS which provides that, amongst other things, the Local Planning Authority will support new development which recognises, protects and enhances the District's heritage assets and their settings, with

particular emphasis being given to conserving local distinctiveness, especially in terms of characteristic materials and built form.

18. In relation to this main issue, the proposal would conflict with part iv. of Policy DM15 of the Winchester District Local Plan Part 2: Development Management and Site Allocations (adopted 2017) (DMSA) which provides that, amongst other things, proposals which accord with the development plan will be permitted where they conserve or enhance the special qualities of conservation areas.
19. The proposal would conflict with part i. of Policy DM16 of the DMSA which provides that, amongst other things, development which accords with the development plan will be permitted provided it responds positively to the appearance and variety of the local environment, within and surrounding the site, in terms of its design and scale. The proposal would conflict with part ii. of Policy DM17 of the DMSA which provides that, amongst other things, development which accords with the development plan will be permitted where it does not have unacceptable effects on heritage assets.
20. The proposal would conflict with part ii. of Policy DM27 of the DMSA which provides that, amongst other things, within conservation areas, development proposals which conserve or enhance the appearance or special architectural or historic interest of the area, and accord with the development plan, will be permitted provided, for new buildings they are of a height, massing, materials, and roofscape in scale and harmony with adjoining buildings and the area as a whole.
21. The proposal would also conflict with chapter 16 of the Framework, which seeks to conserve and enhance the historic environment.

Protected tree

22. The second reason for refusal in the Council's decision notice provides the Council's stance at application stage that the proposed development would result in damage to the protected copper beech tree² towards the rear of the plot. The Officer's Report elaborates that the Council was concerned that, considering the large amount of built construction existing within the tree's root protection area (RPA), the proposal would further reduce tree's RPA and would have a long-term impact on its health.
23. However, at the appeal stage the appellants submitted a Proof of Evidence³ (PoE). Subsequent to the previous objections raised by the Council's Principal Tree Officer (including in relation to moisture, oxygen and nutrients available to the tree), the Council have accepted the contents of the PoE and have now recommended that the proposed condition(s) listed in that PoE could be imposed.
24. The PoE provides a detailed analysis of which built structures within the nominal RPA could impede or exclude tree root colonisation from the tree, which leads to the convincing conclusion that there is no need to keep the area of garden south of the existing dwelling as an additional area available for tree root growth as the minimum RPA as detailed by BS5837 is present.

² Tree Preservation Order 1288

³ Proof of Evidence by Ben Abbatt Dip Arb (RFS) MICFor MRICS CEnv (Sapling Arboriculture Ltd) (January 2022)

25. Considering this, and noting the photographic evidence supplied demonstrating that no significant roots or root masses were found during the excavation works as consented in a recent tree works application⁴, the technical evidence supplied strongly indicates that the proposal would not be likely to result in damage to the protected tree. Consequently, if the proposal were acceptable in all other respects conditions could be imposed to protect the tree during the construction phase of the proposed development.
26. I therefore find that the proposal would have an acceptable effect on the protected tree on site. In relation to this main issue, the proposal would comply with the second bullet point of Policy CP20 of the JCS which provides that, amongst other things, the Local Planning Authority will support new development which recognises, protects and enhances the District's heritage assets and their settings, with particular emphasis being given to conserving local distinctiveness, especially in terms of trees.
27. In relation to this main issue, the proposal would comply with part v. of Policy DM15 of the DMSA which provides that, amongst other things, proposals which accord with the development plan will be permitted where they conserve or enhance trees which contribute to local distinctiveness. The proposal would also comply with Policy DM24 of the DMSA which provides that, amongst other things, development should not result in the loss or deterioration of special trees and the space required to support them in the long term.

Other Matters and Planning Balance

28. I have found on the first main issue above that the proposal would conflict with an up-to-date development plan and in these circumstances the Framework advises that planning permission should not usually be granted. However, I must consider whether other material considerations indicate that the plan should not be followed.
29. In this regard, no concerns have been raised by the Council in their decision notice in relation to the living conditions of the occupiers of No 44 or other neighbouring properties, the living conditions of the future occupiers of the proposed new dwelling, access, car parking, foul and surface water drainage, soft landscaping, and any habitats and species present on site. However, even if I were to likewise reason that the proposal would be acceptable in these respects, with the potential for relevant conditions to be imposed as necessary, these would be neutral factors rather than ones which weigh positively in favour of the proposal, as is the lack of harm identified on the second main issue above with respect to the protected tree.
30. I have summarised on the first main issue, above, the benefits that the proposal would offer to the public. In addition to these benefits, the proposal incorporates methods relating to appropriate energy usage and water consumption, the use of renewable energy sources, and provision for access in line with Building Regulations requirements. The proposal would also enable the appellants to downsize, and as mentioned on the first main issue above, in this regard it is intended that No 44 would be released to the market.
31. These matters would be in compliance with a number of the Council's development plan policies, and relevant paragraphs of the Framework. In this

⁴ 21/03267/TPO

regard, the positive impacts of the various economic, social, and environmental benefits as summarised above would be associated with the quantum of development involved in this appeal, which is minimal. I therefore consider that all these benefits, when considered together, provide only modest support for the proposal. It follows that they would amount to no more than moderate weight in favour of the proposal.

32. I have found on the first main issue that the proposed development would not preserve or enhance the appearance of the conservation area. Given that the Framework provides at paragraph 189 that, amongst other things, heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations, I give substantial weight to this harm.
33. Taking all of the above into account, as a matter of planning judgement I find that all the matters advanced in support of the proposal, do not, either individually or collectively, outweigh the harm identified, nor the conflict with the development plan identified.
34. Had my findings in relation to the first main issue been more favourable, it would have been necessary to address representations on the other issues raised by local residents in more detail. However, as I am dismissing the appeal for other reasons, I make no further comments on these matters.
35. As mentioned in the third reason for refusal in the Council's decision notice, the Council considers that the proposal has the potential to have a significant effect on the Solent Special Protection Areas (SPAs), by way of increased discharge of nitrates into the SPAs. However, as I am dismissing the appeal for other reasons, there is no need to consider the potential implications of the proposal in this respect. I therefore make no further comments on this matter.

Conclusion

36. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR