



Appeal Decision

Site visit made on 14 February 2022

by L Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2023

Appeal Ref: APP/W4705/W/22/3312204

Land South Of 5B Brearcliffe Street, Bradford BD6 2LD

- 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 Majid against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 22/01067/FUL, dated 7 March 2022, was refused by notice dated 11 October 2022.
 - The development is a proposed new dwelling on vacant land.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area with particular regard to protected trees.

Reasons

3. The appeal site comprises a small area of vacant land predominantly bounded by walls and fencing, between two dwellings in a residential area. Mature trees protected under a TPO¹ lie outside of the site boundary directly to its rear, with some branches significantly overhanging the site, and root zones partly underneath. The appeal proposal is for a new part 2 storey and part single storey dwelling, with small rear garden and an off-street parking space.
4. The set of tree reports submitted by the appellant identify three of the trees protected by the TPO as being in a fair condition with over twenty years of further growth. They go on to identify that the ash tree is diseased, and thus assume that it will be removed within the next few years for safety reasons. However, I have no certainty if or when this may occur, and no trees are proposed for removal as part of the appeal scheme. Furthermore, one of the tree owners has indicated that they wish to retain the trees intact. I therefore do not take the removal of this tree into account in my assessment, as it would be present for at least the short term following the development's construction.
5. The TPO indicates that these trees were specifically identified as having a value deemed worthy of protection. Trees have many benefits, which in this case I noted on my site visit includes their significant visual contribution to the area's character and appearance, reflecting the contribution of trees to the otherwise built up environment.

¹ Bradford Council reference: 09/00024/IG

6. The proximity of the proposed dwelling to the rear site boundary and trees, would only allow for very limited light ingress through its rear windows. However, the only affected habitable room would be the ground floor combined kitchen and living room, which would also have a relatively large front window allowing sufficient light for its future occupiers.
7. The tree reports conclude that the trees are very unlikely to cause nuisance to future residents. However, I disagree because almost the entirety of the proposed garden would be overhung by tree canopies, including by the ash which the tree report conclusion did not take into account. This would compromise the garden's usability for its future occupants due to the trees causing an overshadowed and oppressive space, in what would already be only a small and constrained area. The garden and parts of the dwelling would also be subject to significant debris fall. Together, this would cause harm to its future occupiers.
8. The tree reports identify that some form of tree pruning would be required in order to build the appeal scheme. I accept that this may be minor, and of a kind which is commonly undertaken as part of regular maintenance. However, this pruning is unlikely to be required without the development proposal, and especially not to the same extent of crown lift. Therefore, the appeal scheme would result in an unnecessary impact on the trees, for which no particular justification has been provided.
9. Furthermore, although the future occupiers would be aware of the proximity of the trees and their TPO protection when purchasing the property, it is not unreasonable to assume that dissatisfaction with shade, falling leaves, and debris could well increase over time. If the development were to be allowed, there would be a significant risk of that leading to pressure for substantial reduction or complete felling of some of the trees, which could be difficult for a reasonable local planning authority to resist. As a consequence, the site would become more urbanised and the green back drop to the surrounding houses would be lost, which would be severely harmful to the character and appearance of the area.
10. In conclusion therefore, the proposed development would have a harmful effect on the character and appearance of the area with particular regard to protected trees. This would be contrary to policies DS1, DS2, and SC9 of the Bradford Core Strategy Development Plan Document (2017), which seek for developments to contribute to achieving good design and high quality places and spaces. Policy DS2 specifically requires proposals to retain existing landscape and ecological features and integrate them within developments as positive assets, and to work with the landscape to reduce the environmental impact of development. The proposal would also conflict with the National Planning Policy Framework (2021) paragraph 131, which requires that trees should be retained wherever possible, as they make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change.

Other Matters

11. I note the third party objections relating to parking, access, and potential overlooking, although also note that the Council has not identified these as reasons for refusal. As I have already concluded that the proposal would be harmful for other reasons, I have not addressed these points in detail.

12. Two third parties have supported the proposal, on the basis that housing is needed within Bradford, that a dwelling on the appeal site would complete the gap between adjacent dwellings, and also that development here would avoid the future occurrence of fly tipping or anti-social behaviour. However, I have no evidence that that Bradford has a housing delivery shortfall, and so I only give very limited weight to the small benefits associated with one additional dwelling. I have already found that the site would not be physically suitable for the appeal proposal. Finally, I am not aware that fly tipping is an existing problem, but this issue could in any case be resolved in other ways.

Conclusion

13. The proposal conflicts with the development plan as a whole. With no other material considerations outweighing this conflict, for the reasons given above I conclude that the appeal is dismissed.

L Hughes

INSPECTOR