



Appeal Decision

Site visit made on 12 February 2024

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th February 2024

Appeal Ref: APP/W4705/W/23/3334576

24 Melrose Street, Bradford BD7 3EW

- 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 Salim Khan against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 23/01723/FUL, dated 18 May 2023, was refused by notice dated 14 September 2023.
 - The development proposed was originally described as construction of dwelling resubmission of application number: 22/05312/FUL.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was submitted, a revised version of the National Planning Policy Framework (the Framework) has been published. In relation to this appeal the relevant parts of the Framework are similar. Consequently, I have not gone back to the parties for comments. Whilst I have had regard to the Framework in reaching my decision, no party would be prejudiced or caused any injustice by me taking this approach. In any event, the main parties were able to deal with this matter within their statement of case and final comments.

Main Issues

3. The main issues are, the effect of the proposed development on:
 - The nearby tree;
 - The character and appearance of the area; and
 - Biodiversity.

Reasons

Tree

4. The site previously had several mature trees to the site's frontage which made a positive contribution to the character and appearance of the surrounding area. These trees have been felled.
5. There are mature trees adjacent to the appeal site. The trees are not protected by a Tree Preservation Order, but are statutorily protected by way of the site's conservation area designation. The trees make a positive contribution to the surrounding area.

6. The block plan drawing shows the location of the nearby sycamore tree. It is well formed and given its location, adjacent to the highway, it has a high amenity value both individually and cumulatively with the adjacent trees. There would be limited distance between the proposed development, including the parking spaces, and the adjacent tree.
7. The block plan outlines the root protection area of the tree and sets out a tree protection fencing area with an example of tree protecting fencing. A tree survey document has also been provided which contains little detail. It appears that the tree survey and details shown on the plan have not been undertaken by a suitably qualified arboriculturist, and the development is not supported by an Arboricultural Impact Assessment.
8. The information submitted in relation to the adjacent tree is inadequate to ensure that the proposed development would not have an adverse impact on the tree. The development could in the future result in harm to the health and longevity of the tree. There could also be pressure in the future to prune, lop, or possibly remove the tree, which may be difficult for the Council to resist.
9. Given the positive contribution the tree makes, the potential pressure to prune, lop, or possibly remove the tree is likely to have an adverse impact on the character and appearance of the area, including the Great Horton Conservation Area (CA). Furthermore, considering trees have already been felled at the appeal site (which made a positive contribution to the area), it is important that the nearby tree would not be adversely affected by the development which would further negatively impact the area.
10. For these reasons, and based on the evidence presented, the development would have a detrimental effect on the nearby tree. Consequently, it would conflict with Policies DS2, EN3 and EN5 of the Local Plan for the Bradford District: Core Strategy Development Plan Document (2017) (CS). These collectively seek, amongst other things, to ensure the contribution that trees make to the character of the area is preserved and enhanced, and that the character and appearance of the historic environment is preserved and enhanced. It would also conflict with chapter 12 of the Framework which seeks to achieve well-designed places and recognises that trees make an important contribution to the character and quality of urban environments.
11. The appellant highlights that a tree survey was not requested in the original withdrawn application and was requested late in the application process. They also assert that the information is similar to that provided for other applications. However, these considerations do not outweigh the conflict I have found above.

Character and appearance

12. The appeal site comprises the front garden of 24 Melrose Street. Melrose Street is primarily characterised by terraced dwellings. No 24 consists of two dwellings (24 and 24a) which have been created as a result of dividing the former vicarage of the Great Horton Methodist Church. No 24 is a circa mid-19th century, attractive building constructed in stone with a slate roof. In contrast to other dwellings in the streetscene, it is set back from the highway and is situated within a spacious plot.

13. The drawings are adequate to show the proposal's relationship with the adjoining dwelling. The dwelling's width would not be significantly wider than the adjoining dwelling, as shown on the south west elevation drawing. Thus, the development would not result in an unbalanced or over dominating addition as the dwelling has been designed to closely match that of the existing terraced row. The proposal would be appropriate to its context and would not cause harm to the character and appearance of the area. Consequently, the proposed development would comply with Policies DS1 and DS3 of the CS. These seek, amongst other things, to ensure development proposals are appropriate to their context.

Biodiversity

14. The appeal site currently comprises garden land to a residential property, and in the past contained a number of mature trees which have been removed. The development would result in the loss of the lawn area and the hedgerow is likely to support breeding birds. A Preliminary Ecological Appraisal was provided with the application which sets out recommendations and mitigation measures.
15. The Council set out that a Biodiversity Net Gain Assessment (BNGA) is required as the site includes the clearing of garden land more than 25sqm and trees have been felled on site. The Council's requirement for a BNGA appears to relate to the new mandatory requirement introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021), rather than a policy requirement. Given the date the application was made, this is not a requirement for the development before me.
16. I am satisfied that a planning condition, relating to the recommendations and mitigation measures set out in the Appraisal, would ensure that the development would have an acceptable effect on biodiversity. Consequently, based on the evidence presented, the development would comply with Policy EN2 of the CS and chapter 15 of the Framework which seek to protect and enhance biodiversity.

Other Matters

17. The Council concede that the Housing Delivery Test results indicate that the delivery of housing has been below the requirements set out in the Framework. The development would result in a very limited contribution to housing land supply as it would result in one dwelling. In addition, the development would provide very limited economic benefits.
18. The appeal site is located within the CA and towards the north-west of the Great Horton Methodist Church, which is a Grade II listed building. As such, I have had regard to the statutory duty placed on decision makers in sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
19. Given the distance between the proposed dwelling and listed building, as well as the intervening development and the proposal reflects the design of the adjoining terraced row, the proposal would not unduly interrupt views of the listed building, nor would it have any notable impact on how the heritage asset is experienced. As such, I am satisfied that the development would have a

neutral effect on the heritage asset and would preserve the special interest of the listed building.

20. Similarly, and notwithstanding my findings in relation to the first main issue, the proposed dwelling would have a neutral effect upon, and therefore preserve, the character and appearance of the CA and would not cause harm to the significance of the designated heritage asset. This is because the proposed dwelling would reflect the design of the adjoining terraced row (which I acknowledge are not within the CA), and would generally be sympathetic to the character and appearance of the area.
21. The appellant highlights that the development would maximise the potential of the site in a sustainable location, and provide acceptable living conditions for future residents, would comply with both the Framework and development plan policies, and there have been a lack of objections. The other matters highlighted would not outweigh the harm I have found.

Planning Balance and Conclusion

22. I have found that the proposed dwelling would not cause harm to the character and appearance of the area, and would be acceptable in terms of biodiversity. However, based on the evidence presented, it would have a detrimental effect on the nearby tree, to which I attach significant weight. The benefits of the development would be very limited.
23. Given the Council's housing delivery position, paragraph 11(d)(ii) of the Framework is engaged. Weight may still be afforded to policies depending on their consistency with the Framework. The most relevant policies are consistent with the aims of the Framework regarding the need to achieve well-designed places, and recognises that trees make an important contribution to the character and quality of urban environments. There is nothing within the Framework to suggest that those requirements of all development should be lessened on account of the shortfall in housing delivery. In that context, I attach significant weight to the conflict with the development plan.
24. In considering paragraph 11(d)(ii) of the Framework, I must determine whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
25. For the reasons given above, the proposed development would have a detrimental effect on the nearby tree. The benefits associated with the appeal scheme carry very limited weight. Consequently, the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
26. The proposal would be contrary to Policies DS2, EN3 and EN5 of the CS and I afford this conflict with the relevant policies of the development plan significant weight.
27. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal does not succeed.

L Wilson

INSPECTOR