



Appeal Decision

Site visit made on 26 March 2024

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd April 2024

Appeal Ref: APP/R0660/W/23/3332662

Plot 28, Land at Forge Lane, Congleton, Cheshire, CW12 4HF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr J Allen against the decision of Cheshire East Council.
 - The application Ref is 23/2810C.
 - The development proposed is a dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the long-term health of protected trees.

Reasons

3. The proposed bungalow would be erected on a small plot of land to the rear of houses on West Road, adjacent to a terrace of recently constructed dwellings on Forge Lane. The site is surrounded on three sides by trees and vegetation in adjacent gardens, and on the steep wooded bank which forms the north-western boundary.
4. Much of the site falls within an area covered by a Tree Preservation Order (TPO), which includes the trees on the wooded bank and along the south-western boundary. The protected trees are visible from West Street, Crossledge and Forge Lane, and provide a green, wooded backdrop to built development in this location, which contributes positively to the character of the area.
5. The Council has raised no objection to the principle of a new dwelling here, and I have no reason to come to a different view. I agree that the plot could accommodate a bungalow of an acceptable size, with adequate space for parking and outdoor amenity. However, the relationship between the proposed development and the surrounding trees, many of which are protected, also needs to be taken into account.
6. BS5837:2012¹ notes that development should achieve a harmonious relationship between trees and structures, that can be sustained in the long term. Where the relationship between trees and a development is not adequately considered, this can lead to pressure to remove or severely prune specimens to allow light and daylight into rooms and across amenity areas.

¹ Trees in relation to design, demolition and construction – Recommendations

7. In this case, the appellant's Arboricultural Report (Tree Heritage Ltd) confirms that no trees are proposed to be removed as part of the development. Construction of the building and hardstanding areas have been sited so they would be outside the calculated root protection areas, and no pruning or other tree work is identified as being necessary to enable the development to proceed. Subject to appropriate protection measures during construction work, the Arboricultural Report raises no particular concerns about the impact of the proposal on the trees.
8. However, the plans contained in the Arboricultural Report show that the combined canopies would extend over much of the garden area. Whilst the protected trees on the wooded bank would be on the northern side of the site, the garden area would be subject to significant shading by the protected sycamores along the south-western boundary, as well as the trees in adjacent gardens. These trees include a row of substantial Leyland Cypress trees, which remain tall despite having been reduced in height.
9. Whilst a shady setting may be welcomed by some, other future occupiers of the proposed bungalow may be less tolerant of the reduced levels of light to both the dwelling and garden which would result from the surrounding trees. Furthermore, the additional maintenance associated with leaf litter, debris and moss growth to the garden areas may not be welcomed or accepted by all.
10. The Arboricultural Report identifies that the Sycamore and Beech trees along the wooded bank (identified as T14-T20) are generally in good condition, identified as Category A or B trees. Whilst there is no suggestion that the trees are unsafe, the report recognises that trees are dynamic structures that can change rapidly. The trees on the steep bank rise high above the level of the proposed bungalow, and for future occupiers, movement of these trees in stormy weather may well lead to fear and anxiety regarding their stability. There could also be concerns about the stability of the Sycamore trees along the south-western boundary, (T11-T13), which have significant ivy growth and are identified within the Arboricultural Report as being in generally poor condition.
11. Concerns about the safety of the trees may well result in applications for more extensive works than the minor routine pruning referred to by the appellant. The Council would need to give permission to prune or fell the trees, and I accept that any application for removal on safety grounds would need to be based on clear arboricultural evidence. However, as extreme weather events become more frequent and intense, the concerns of future occupiers may result in pressure for tree works which the Council may find difficult to resist in this location. Such works could impact on the long-term health, and wider amenity value of the trees.
12. I note the comment in the Arboricultural Report that the trees have a similar impact on the existing houses, but the recently constructed terrace along Forge Lane is angled away from the bank of trees. Unlike in the appeal site, the road and parking area separate the existing houses from the trees, and act as a buffer. I acknowledge that the end property, 11 Forge Lane, is a similar distance from the trees as the appeal site, but I noted when visiting the area that the closest tree to that property has recently been pruned. Whilst that pruning may have been needed to facilitate the development, it does

demonstrate that the presence of houses so close to the trees is likely to have an ongoing impact on them.

13. The appeal site, which formed part of the development area of the new houses, has been used for the storage of building materials, and there was still evidence of this use when I visited the site. The materials were being stored centrally within the site, away from the trees, and I have no clear evidence to suggest that this use would be any more or less harmful to tree roots than the proposed development.
14. The appellant has referred to an appeal for a new dwelling at Congleton Road North, Scholar Green which was allowed in 2016². From the Inspector's decision it is evident that the trees were very close to the proposed house in that case, but there is no suggestion of the topographical issues that are of particular concern in the appeal before me, in which protected trees are positioned on a steep wooded bank, immediately adjacent to the proposed development. Similarly, the recently allowed appeal at Brereton Road, Rode Heath³, involved a different site, and a different relationship between protected trees and the proposed development.
15. I have assessed the appeal before me on its own merits. Given their different context, the examples referred to do not provide a precedent for this case, and do not alter my findings in relation to the appeal proposal.
16. For the reasons set out above, I am unable to conclude that the proposed development would achieve a harmonious relationship with existing protected trees. Pressure to prune or fell the trees would result in unacceptable risk to their long-term health. The proposal would therefore conflict with Policy SE5 of the Cheshire East Local Plan Strategy 2017, which says that development will be resisted if it would threaten the continued health and life expectancy of trees that provide a significant contribution to the amenity or landscape character of the surrounding area. There would also be conflict with Policy ENV6 of the Site Allocations and Development Policies Document 2022, which requires that development proposals protect trees and woodlands.

Other Matters

17. The proposal would make efficient use of land, providing an additional unit of residential accommodation in an urban area, within easy reach of local services and facilities. The proposal would contribute to the number and range of dwelling types in the area, and the design would be acceptable. However, the contribution of a single bungalow to the overall supply of housing would be small, and would not outweigh the potential harm to the protected trees, which make a significant contribution to the character of the surrounding area.
18. Whilst long term effects on the trees would have an impact on biodiversity, no harm to protected species has been identified. If the development were otherwise acceptable, a condition requiring a scheme of biodiversity enhancements could be imposed, which would enable the scheme to meet relevant policy requirements in this regard. This matter, which represents a lack of harm, is neutral in the planning balance.

² Appeal ref APP/R0660/W/16/3147846

³ Appeal ref APP/R0660/W/22/3312281

Conclusion

19. As it would result in an unacceptable risk to the long-term health of protected trees, the proposal would fail to comply with the development plan. I have identified no other material considerations which outweigh this harm. The appeal is therefore dismissed.

R Morgan

INSPECTOR