



Appeal Decision

Site visit made on 1 October 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 24 October 2024

Appeal Ref: APP/X4725/W/24/3340927

24 Chevet Lane, Sandal, Wakefield WF2 6HR

- 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 W Jones against the decision of Wakefield Metropolitan District Council.
 - The application Ref is 23/00200/FUL.
 - The development proposed is erection of detached dwelling and associated works within existing garden.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of the application, the Wakefield District Local Plan 2036 was adopted, 24 January 2024 (LP). Whilst the application was refused against Policy D7¹, there is no dispute between the parties that LP Policy LP54², protection of trees and woodland, now applies.
3. During the application, the proposal was amended to retain T2, a mature horse chestnut tree, and include the planting of three native trees and a hedgerow. This is the basis on which I have determined the appeal.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area, including its effect on protected trees.

Reasons

5. The host property, (No 24), is a detached house located in a large, linear plot which extends between Chevet Lane and Woodthorpe Drive, an unadopted private road to the rear. It is within a residential area of mainly detached houses in generous plots of land. The properties, which vary in design and appearance, are often bounded by mature hedgerows with many trees within the gardens.
6. The proposed dwelling would be constructed in the rear garden of No 24. This is gently terraced and includes an extensive area of lawn, with landscaping provided by small trees and shrubs, and a prominent and attractive weeping willow, T7, growing within the lawn.

¹ Wakefield District Local Development Framework Development Policies, 2009

² Volume 1 Development Strategy, Strategic and Local Policies

7. Woodthorpe Drive to the rear, which would provide the access to the proposed new dwelling, has been surfaced from the junction of Woodthorpe Park Drive to a short distance beyond the proposed entrance for the dwelling. Whilst this could not be used by vehicles much beyond this point, and it is not a designated footpath, the route continues past the rear of the property to where it joins Chevet Lane at the junction with Carr Lane, as well as extending south on the other side of Woodthorpe Drive. It is, for the most part, bounded by the vertical timber fencing of adjoining properties.
8. Adjacent to the fencing, and overhanging Woodthorpe Drive, are numerous tall trees. These are subject to a Tree Preservation Order (TPO)³ and create a pleasant, green corridor. Although at the time of my visit many of the trees had started to lose their leaves, there was a filtered view of branches and the sky through the surviving leaf canopy. The trees are highly visible from surrounding houses, Woodthorpe Park Drive and for those walking along Woodthorpe Drive. Consequently, they make a significant and important contribution to the visual amenity of the area, in line with paragraph 136 of the National Planning Policy Framework (the Framework).
9. Amongst these trees, and part of the TPO⁴ are trees T1-T6. These are growing next to the rear boundary fence of No 24, with T1-T4 being within the grounds of the property, and T5 and T6 next to the rear lane. The proposal would result in the removal of T1, a mature sycamore, as well as T7, which is not covered by the TPO.
10. Although only one of the TPO trees would be removed for the proposed development, T1 is a category B tree, and so is in good condition, as is T7. Whilst the loss of one tree in the group could result in the other trees receiving additional light and space, all the TPO trees, apart from T5 at 18 metres, are 20 metres or more in height. Therefore, they have a considerable presence in this area.
11. As well as the removal of trees, the proposal would encroach into the Root Protection Area (RPA) of T2, T3, T4 and T6 as a result of the construction of the proposed driveway and turning area at the front of the house. Additionally, some root pruning of T4 would be required to allow for the construction of the building.
12. T2 is a mature, single stemmed, horse chestnut tree. It is a C category tree, and in poor condition as it is suffering from bleeding canker and has leaf miner damage. T4, another C category, mature horse chestnut, is suffering from the same. These trees have a life expectancy of over 10 years, but because of their condition, are already likely to be under some stress.
13. Both T3 and T6 are sycamore trees, with T3, a category B tree, having a life expectancy of over 20 years, and T6, a category A tree, having a life expectancy of more than 40 years. Consequently, both these trees are likely to make a significant contribution to the character of the area for many years.
14. Prior to any construction on the site, protective fencing would be placed around the TPO trees. The access and the driveway would be created using a no dig method. This, combined with a geotextile membrane and a cellular confinement system, held in place by edging supports, is designed to allow

³ City of Wakefield (Tree Preservation) (Woodthorpe Lane) Order 1966

⁴ The several trees of whatever species standing in the area numbered A.5 on the map

moisture to percolate through and to protect the trees during construction and beyond. Whilst the fencing is proposed to be kept as far away from the trunks of the trees as possible, there are limited details of the exact position. Therefore, there is no certainty that there would not be any damage within the RPAs of the protected trees. Additionally, whilst the intention is for the site compound to be located away from the trees, there would be very limited space for this outside the RPAs and where the building is being constructed.

15. The access has been redesigned so that the proposal would only result in the loss of one TPO tree, in addition to the removal of the weeping willow for the construction of the house. These would be replaced by three new native trees and a traditional hedge. However, the space around the house would be limited. The hedgerow would be planted close to the rear of the proposed development where there are windows serving a bedroom, a bathroom and a kitchen/dining area and so there would be likely pressure not to allow the hedge to grow to an extent where it would block daylight and sunlight from these rooms. Likewise, the three trees would be grown to the front of the single storey dwelling, where there is limited space between this and the existing TPO trees. Consequently, there is a likelihood that the occupiers of the proposed dwelling would seek to restrain the growth and canopy of these trees to prevent excessive shading.
16. Moreover, the canopy of T2, T3 and T6 is over the parking and turning area where leaves and seeds would fall onto parked vehicles. This would likely lead to pressure for future pruning and potentially felling. Whilst an application to the Council would be required if any works are proposed to the TPO trees, this could result if the trees are a nuisance to future residents.
17. Whilst the arboricultural report has set out the protection measures for T2, T3, T4 and T6, from the limited evidence that has been provided, I am not assured that the health of the retained trees would not be affected in the long term, particularly if, in the case of the horse chestnut trees, they are already compromised by disease. Furthermore, there are limited details of how services and drainage would be provided to the proposed dwelling and whether these would also affect the roots and health of the trees.
18. The TPO trees, as well as the weeping willow, are highly visible from Woodthorpe Drive and from much wider viewpoints. Therefore, they have more than a limited public benefit. Woodthorpe Drive, even in the short time I was visiting the site, was used by locals walking, or exercising their dogs. Whilst the removal of only one of the TPO trees could be regarded as having a limited effect, as it is part of a group, it has a wider value. Consequently, the proposal would harm the amenity of the area. Whilst three new trees would be planted, these would take a considerable time to reach maturity and so would provide only limited ecological and environmental benefits.
19. Whilst the proposal was redesigned to prevent the additional loss of T1, there is limited substantive evidence, as required by LP Policy LP54, that the need for development clearly outweighs any harm to the ecological value and landscape quality of the area. Moreover, there is limited detailed evidence that there would be an overall net gain for biodiversity of at least 10%, including a positive contribution to the protection, creation and enhancement of habitat and species.

20. Therefore, I conclude that the proposal, because of the loss of trees and the effect on the remaining protected trees, would result in significant harm to the character and appearance of the area. It would not accord with LP Policy LP54 as set out above, and paragraph 136 of the Framework.

Other Matters

21. Reference has been made to planning permission having been granted⁵ for the construction of a dwelling at No 28 Chevet Lane, with access from Woodthorpe Drive. The parties state that this would result in the loss of seven trees, one of which is protected by a TPO. The evidence from the Council is that this was a horse chestnut, a category C1 tree, in poor condition, whilst the other trees, none of them of a good quality, were small. Whilst the appellant considers that this case sets a precedent for development, there is limited substantive evidence that the case is directly comparable. Moreover, the removal of a category C1 TPO tree, differs from the appeal site where there would be the loss of a category B1, TPO tree, as well as the additional concerns regarding the health of the other protected trees. Consequently, this provides limited weight.
22. Whilst paragraph 55 of the Framework refers to the consideration of whether otherwise unacceptable development could be made acceptable through the use of conditions, in this appeal I have found that the proposed development would harm the character and appearance of the area. Therefore, suitably worded conditions would not be appropriate in this case.

Planning Balance

23. There is no dispute that the proposal would result in an individually designed, three-bedroom, single storey property with a sedum roof and timber cladding to help reduce carbon emissions and adapt to climate change. There would be adequate amenity space to the front and off-street parking for two vehicles which would not impact on the local highway network. It would provide suitable levels of accommodation and acceptable separation distances between dwellings to provide privacy. In addition, there are no drainage or flood risk issues.
24. The development would contribute to the housing supply, and the local economy during the construction period and from future occupiers using local services and facilities. However, it would only provide one house in an area with a recently adopted local plan. Furthermore, the existing trees on the site make a significant and positive contribution to the visual amenity of the area. The removal of two trees to facilitate the proposal, and development within the RPA of TPO trees, despite the proposed mitigation, would risk the long-term health and survival of the remaining trees and would harm the character and appearance of the area.

Conclusion

25. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, including the provisions of the Framework, that outweigh the identified harm and that warrant a decision other than in accordance with the development plan.

⁵ Ref 23/00055/FUL

26. Therefore, for the reasons given above, I conclude that the appeal is dismissed.

M J Francis

INSPECTOR