



Appeal Decision

Site visit made on 17 October 2024

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th November 2024

Appeal Ref: APP/E0345/D/24/3346524

12 St Benets Way, Emmer Green, Reading RG4 8SZ

- 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 & Mrs Stephen Naylor against the decision of Reading Borough Council.
 - The application Ref. is 240286.
 - The development proposed is single storey side extension to create extended garage and workshop.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Whilst it is common ground that the entirety of the appeal site is within the ownership of the appellant, the parties' views are not aligned as to the lawful use of the treed area adjacent to the host dwelling, or whether it forms part of the domestic curtilage of 12 St Benets Way. The Council also alleges that some works have been undertaken on the site without permission from the Council. It is not for me, as part of this Section 78 appeal, to establish the existing use of the land or the lawfulness of developments that have already been carried out. My focus is simply on whether the proposed development is acceptable in planning terms, and I have determined the appeal on this basis.

Main Issues

3. The main issues are:
 - the effect of the proposal on protected trees and the character of the area; and
 - the effect of the development on biodiversity.

Reasons

Protected trees

4. The host dwelling lies at the end of St Benets Way and adjacent to a well-treed area that is subject to a Tree Preservation Order (TPO). The collection of trees on the appeal site are within the appellant's ownership and are not accessible to the public. Nonetheless, as a collection, they are prominent in the street scene when approaching along St Benets Way and they contribute positively to the verdant character of the area. The TPO originally applied to all

trees within the designated area. However, the evidence indicates it was modified on its confirmation to cover Oak, Ash, Birch, and Hornbeam species.

5. The Arboricultural Report (AR) and the Tree Constraints Plan show that 3 small plum trees would be removed to facilitate the development. I observed the affected trees on my site visit and noted them to be of poor or fair structural condition and of moderate height, with low amenity value, which corresponds with the findings of the AR. The trees that would be removed are not visible from the public realm due to the intervening position of the host dwelling and boundary treatments. Consequently, I am satisfied the leafy character of the street would be maintained and there would be no unacceptable visual harm caused due to the loss of the trees.
6. The AR concludes that no further trees would be affected by the proposal due to its distance from root protection areas. The Council has not disputed the methodology or conclusions of the AR. Therefore, on the basis of the evidence before me, I am satisfied the AR is a robust assessment of the effect of the proposal on nearby trees. Moreover, the tree protection measures, and precautionary working methods set out in the AR could reasonably be secured through condition if the appeal were to be allowed. This would ensure that no protected trees would be harmed by the development.
7. Overall, I conclude there would be no harm to protected trees or the character of the area. Therefore, there would be no conflict with Policy EN14 of the Reading Borough Local Plan (Adopted November 2019) (LP), which seeks to protect trees from damage or removal. There would also be no conflict with Policy CC7 of the LP, which seeks high quality design that respects local character and the appearance of the street.
8. The Council has referred to Policy EN8 of the LP in its reason for refusal. The policy refers to undesignated open spaces which, as explained in the accompanying text, include those in private ownership. Given the site is not publicly accessible, there would be no conflict with the recreational aims of Policy EN8. Moreover, I have found there would be no harm to the character of the area due to the loss of the 3 small plum trees. Consequently, even if I were to conclude that the site contained undesignated open space due to its amenity value, there would be no conflict with Policy EN8 of the LP because local character would be preserved.

Biodiversity

9. Although the site is not identified as priority habitat on the Proposals Map, it is the Council's position that the treed area to the east of the host dwelling is broadleaved woodland, which is a priority habitat listed in the Natural Environment and Rural Communities Act 2006 (as amended) (NERC Act). I note that the appellant disputes that the site contains priority habitat. However, I have not been provided with an ecological appraisal document or any other authoritative technical evidence from which I can be certain about the ecological baseline of the site.
10. From the evidence before me, and my own observations, the wider site contains a mix of tree species as well as soils, scrub, and other flora and fauna. On my site visit, I observed some play equipment and other evidence of domesticated human activity amongst the vegetation. However, even if the site forms part of a garden, it is likely to support a range of species, including

protected species, due to the number and variety of natural features and the prevalence of unmade ground.

11. Moreover, whilst the site does not lie on the defined route of the Green Link as shown on the Proposals Map, it is close to it and could feasibly form part of a network of green spaces that are used by protected species for foraging and commuting. Given my statutory duty under Section 40 of the NERC Act, I must have regard to the purpose of conserving biodiversity in deciding this appeal.
12. Due to the small-scale of the proposal, there would be a relatively modest incursion beyond the established side building line of the host dwelling. However, the development would nonetheless encroach onto an area of unmade ground that contains trees, scrub, and undergrowth. Whilst I have not found there would be arboricultural or amenity harm arising through the loss of trees, they could reasonably form part of a priority habitat and could support protected species. Moreover, given the level differences across the site, significant groundworks would be required to facilitate the development which, along with other construction activities, would cause disturbance to wildlife. Without appropriate mitigation, there would be harm to biodiversity.
13. I recognise that the appellant has previously installed biodiversity enhancement measures at the site, and it is clearly the intention that additional tree planting would be carried out. However, without a detailed understanding of the existing ecological value of the site to show the effect of the proposal on priority habitats and protected species, I am unable to form a judgement on the appropriateness of potential mitigation and compensation measures. Furthermore, Circular 06/2005: Biodiversity and Geological Conservation states that it is essential that the presence or otherwise of protected species, and the extent to which they may be affected by development, is established before planning permission is granted. It would therefore not be appropriate to apply a condition requiring ecological survey work to be carried out.
14. Overall, in the absence of substantive evidence to indicate otherwise, the proposal would cause harm to biodiversity. Therefore, there would be conflict with Policy EN12 of the LP, and the Framework, insofar as they seek to ensure developments do not lead to a loss of biodiversity. There would also be conflict with Policy EN12 insofar as it states that the Green Network, which includes areas with potential for biodiversity value, is protected. Because the trees to be removed could be important for biodiversity, the proposal would also conflict with Policy EN14 of the LP in respect of this main issue.

Other Matters

15. There would be some benefits arising from the proposal, including the provision of secure off-road parking provision and storage space for the occupants of the host property. However, these benefits do not override the need to ensure that proposals safeguard biodiversity.
16. No harm has been identified in respect of the design and appearance of the proposed extension or its effect on the living conditions of neighbours. Based on the evidence, and my own observations, I have no reason to take a different view. The absence of harm weighs neither for nor against the proposal.

17. My attention has been drawn to other major developments in the area, which have been supported by the Council on green open space. I do not have sufficient information before me to be certain about the specific circumstances that led to those developments being supported. Nonetheless, I have an obligation to consider the effect of the appeal scheme on biodiversity and have necessarily determined the appeal on its own merits and with regard to the information before me.

Conclusion

18. Whilst I have found no harm would arise to protected trees and local character, the proposal could cause harm to priority habitats and protected species. This is sufficient to bring the proposal into conflict with the development plan when read as a whole, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Consequently, for the reasons given above, the appeal should be dismissed.

E Catchside

INSPECTOR