



Appeal Decision

Site visit made on 25 November 2024

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2025

Appeal Ref: APP/V1260/D/24/3341382

29 Mill Road, Christchurch, Dorset BH23 2JY

- 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 and Mrs Alan and Paula Thorpe against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is 8/23/0641/HOU.
 - The development proposed was described as 'outbuilding for dependant relative'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the post construction effect of the proposed outbuilding on two Monterey pine trees which are part of a group Tree Preservation Order (the TPO)¹.

Reasons

3. The site is a semi-detached house with a narrow, long back garden in a mainly residential part of Christchurch. The remnants of an outbuilding at the end of this garden would be redeveloped with the proposed outbuilding. The Monterey pine trees are in a neighbouring back garden. They are largely what remains of a group of seven trees in a row along a boundary between opposing back gardens. The integrity of the TPO has, as a result, been diminished and some branches have previously been removed from the Monterey pine trees.
4. However, the Monterey pine trees are tall, still imposing in form and reminiscent of some similar locally distinctive trees in the area. The modest intrinsic and moderate public amenity value of both of these trees, albeit now standing mostly in isolation, can be appreciated from surrounding houses and gardens and in near and distant view from roads and pavements over or between houses. They are significant trees for these reasons.
5. The appellants' arboricultural impact assessment (AIA)² describes the closest Monterey pine tree to the site as a 'reasonable' tree. It is 13m high, early-mature, Category B of moderate quality and value with an estimated contribution (lifespan) of 20 plus years³. There is no evidence that the other Monterey pine tree does not share these same or similar characteristics. Even though the closest Monterey Pine tree leans slightly and is slightly one-sided, there is no apparent reason why both

¹ Group G1, 1992 No.12

² Alderwood Consulting Limited Ref D2341AIAv2, 5 December 2023

³ For the purposes of BS5837:2012 – Trees in relation to design, demolition and construction - Recommendations.

would ordinarily not continue to make a significant contribution to the amenity of this area for a long time.

6. No part of either existing canopy currently overlaps the site or any part of the proposed outbuilding, with the closest canopy 5-6m in spread and 4m above ground, which I take to mean to the underside. The Council considers that both of these young Monterey pine tree canopies will 'significantly increase in size'. This quantum of change is not disputed by the appellants and the AIA concedes that the closest canopy is 'likely' to spread in the future (not 'may' spread, as is suggested in the appellants' appeal statement (AS)⁴). Even if spread of this canopy has been restricted towards the site and proposed outbuilding in the past (by a tree since removed) there is no evidence that future spread would not naturally include towards the site and proposed outbuilding, which is also the direction it leans.
7. The AIA states that the crown height of the closest Monterey pine tree seems likely to remain about 4m above ground 'so no significant risk from structural damage by branches'. The AS interprets this to mean falling unspecified 'debris' which is said would have 'no undue harm to the amenity of the occupant' of the proposed outbuilding. While falling pine cones or needles may not harm people, the AIA is not sufficiently precise. It could mean no structural damage to the proposed outbuilding from attached branches because this clearance would prevent contact by proximity, as opposed to that branches falling only 4m (eg from storm damage or disease) would not cause structural damage to the proposed outbuilding.
8. The AIA does not consider the possibility of branches falling from considerably higher up in this tree or that it might grow taller and either way be hazardous to the occupant of the proposed outbuilding whether inside or outside of it. Branches falling from even 4m could anyway be a danger to anyone using the adjacent proposed decked amenity space for instance. There is also no evidence that overhanging or touching branches would not cause cosmetic or minor damage to fabric or decoration needing routine attention or repair. Even if there was little or no cone drop, needles would be regularly shed over at least part of the proposed outbuilding and deck from at least the closest Monterey pine tree. In the absence of evidence to the contrary, clearing needles would likely require a regular maintenance regime to maintain useability of the proposed outbuilding, including the deck. There is therefore likelihood of more than 'a marginal degree of falling detritus' which could warrant extensive remedial tree works to resolve.
9. Such effects would have different consequences for an outbuilding constructed and used for utility purposes, such as a garage or store. But in this case, the self-contained unit of living accommodation for a dependant relative could be a permanent place of residence for the rest of a lifetime and I have not been informed by how much the canopies might spread or how quickly. Even if significant canopy spread took 'several years', as the AIA suggests, this would nonetheless still be well within the estimated lifespan of both Monterey pine trees.
10. I cannot, therefore, be certain how much of the site and the proposed outbuilding might eventually otherwise be overlapped by at least the closest Monterey pine tree or when, thus how serious might be the extent or likelihood of potential outcomes outlined above. Nor can I gauge the extent of potential remedial tree works or likelihood of such works being consented or resisted by the Council.

⁴ Pure Town Planning

11. These considerations are all relevant to an in principle decision to grant planning permission. The conditions suggested by the main parties would not address these uncertainties.
12. The outbuilding remnants could be rebuilt and reinstated as a building for a use ancillary or incidental to residential use and occupation of No.29 Mill Road (in the absence of objective evidence to the contrary, this structure is too dilapidated and lacking substance to be converted to any use). Subject to any conditions or limitations of relevant permitted development rights (PDR) and no other restriction, such as a planning condition, a new outbuilding could instead be erected for such a purpose. Either way there is no objective evidence (such as a certificate of lawful proposed development) that an outbuilding could be erected and used from the outset as a separate self-contained unit of living accommodation using PDR.
13. There is also no objective evidence that a structure in the rear garden of No.31 Mill Road, under the Monterey pine tree closest to the site and proposed outbuilding, is used as living accommodation. The AIA contains no more than speculation about whether that property, or any others nearby, have been subject to applications for tree works that were resisted or consented by the Council. Even if such applications were not frequent or the tree works were not severe, there is no compelling justification this would apply in future to the Monterey pine trees in this case. Nor that the tree works to both Monterey pine trees already consented by the Council were as a result of actual or perceived serious harm to persons or property, even if to remedy storm damage. There is therefore no apparent comparable fallback or precedent for the development applied for in this appeal.
14. Taking account of all the above, I am not satisfied the appellants have demonstrated that the post construction effect of the proposed outbuilding on two Monterey pine trees would result in only a 'possibility' of 'minimal' works; rather than that there is a realistic prospect of further significant remedial pruning works which could significantly diminish and detract from the amenity value of these protected trees and how they are appreciated in the area. In these circumstances the proposed outbuilding is contrary to Policies HE2 and HE3 of the Christchurch and East Dorset Local Plan Part 1 – Core Strategy, April 2014. Amongst other things, these policies seek to enhance areas of recognised local distinctiveness and permit development that is compatible with its surroundings, including in layout and relationship to trees.

Other Matters

15. I appreciate that the appellants might consider it convenient or necessary for an extended family to live at No.29 Mill Road. But there are no details about the situation of the dependant relative who would occupy the proposed outbuilding, such as their age or health, if relevant, and why this living arrangement is sought. Moreover, while the appellants might be willing to accept consequences of the development applied for, such as outlined earlier above, planning operates in the wider public interest, including with respect to the owners of the Monterey pine trees and future owners or occupiers of No.29 Mill Road, either or both of whom may have different objectives. As such, these personal preferences and private benefits have little weight in support of this appeal.

16. The National Planning Policy Framework (NPPF)⁵ recognises that trees make an important contribution to the character and quality of urban environments and that existing trees should be retained (in this appeal in a future state to retain amenity value). It also seeks to ensure well-designed places including by development that is sympathetic to local character and maintains a strong sense of place and distinctive places to live, work or visit. These outcomes are consistent with relevant policy objectives of the Council's development plan.

Conclusion

17. The proposed outbuilding conflicts with local and national planning policy to protect trees. There are no other material considerations to indicate that the appeal should be determined otherwise than in accordance with the development plan taken as a whole. Consequently, for the reasons given above the proposal is unacceptable and the appeal does not therefore succeed

Robin Buchanan

INSPECTOR

⁵ December 2024