



Appeal Decision

Site visit made on 9 April 2025

by **B J Sims BSc (Hons) CEng MICE MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 April 2025

Appeal Ref: APP/P1133/W/24/3343468

Brook House, Church Street, Dawlish, Devon, EX7 9AX.

- 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 Huw Matthews against the decision of Teignbridge District Council.
 - The application Ref is 23/01227/FUL.
 - The development proposed is to:
 - Reduce the height of the boundary wall from a) Brook House exit to corner of Old Town Street and b) Brook House exit to Carpenter's Bridge;
 - Reduce a large flower bed and remove 3 small flower beds to provide additional parking;
 - Re-alignment of wall to the south side of exit within the boundary;
 - Removal of one conifer tree; and
 - Reinstate tarmac.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The development description above is derived from that set out on the application form, as properly defining the range of works proposed. The Appellants note that the reason for refusal failed to reference all the different elements of the appeal proposals, but the entire scheme now falls for fresh and independent reassessment in this appeal.
3. The Appellants also complain of a lack of consultation and seek further discussion with the Council to determine how the proposals might be varied in order to be found acceptable. That might remain a matter between the Appellants and the Council, but this appeal is strictly limited to the merits of the several components of the application as considered and refused by the local planning authority.
4. In particular, the Appellants would be willing to make arrangements to retain the protected conifer tree originally proposed for removal, if required to make the development acceptable. Such a material change to the scheme would involve further detailed consideration of such as root protection and site layout, with revised plans and supporting information for assessment by the Council. Therefore, it is unfortunately not appropriate for me to take the suggested retention of the protected tree into consideration at this stage.

Planning Issues

5. The main issue is the effect the proposed development, including the removal of the protected tree, would have on the character and appearance of the site and surrounding area within the Dawlish Conservation Area (CA). It is also necessary to consider any public benefit that would arise from the development, in particular regarding access and highway safety.

Reasons

Character and Appearance

6. The development would include lowering sections of the frontage boundary walls on either side of the vehicle access to 600mm from their present heights of up to 2m, as well as the removal of a section of wall on the north side and realignment of a length on the southern side, both of which lead into the entrance and lie within the appeal site. This would create a more open entrance with improved driver visibility.
7. In addition, three small flower beds, part of a larger flowerbed and a substantial protected conifer tree within the car parking area would be removed and tarmac reinstated, in order to provide greater manoeuvring space.
8. The grey limestone walls are a noted historic feature of the Dawlish CA, contributing much to the street scene, whilst mature trees, such as the subject conifer, are valued as sustaining the 19th Century character of Dawlish.
9. The 11.8m length of 2m boundary wall to be lowered, south of the access, would not extend as far as the bridge of over the adjacent brook, the latter forming a feature of the grounds of Brook House, the use of which would also not be affected. The only sections of wall to be removed or realigned are set into the site, such that the total length of wall at the highway boundary would not be affected.
10. Only the three smaller flowerbeds towards the rear of the car park would be removed altogether, whilst a fourth larger bed would remain behind the northern boundary wall and would only be cut back to allow more vehicle space.
11. Taken together, I consider that these works to the walls and flower beds would have only a minor negative impact on the Dawlish CA as a whole, albeit this would still mean that the character and appearance of the CA would not be preserved in accordance with established planning law and policy. And, in terms of the National Planning Policy Framework (NPPF), this aspect of the development would cause a degree of less than substantial harm to the CA, as a designated heritage asset, and this must be weighed against any public benefit.
12. The conifer tree is a notably different matter, in that it makes a strong, positive contribution to local character and amenity, that would be totally lost by its removal, as proposed in the scheme now subject to appeal. The tree is, in a sense, doubly protected, first, by the long-established CA designation and, secondly, by a recent Tree Preservation Order over the appeal property.
13. The tree appears to be in good health with potential for many more years of life and, albeit from purely visual inspection, well worth retaining. Its removal, as part of the presently proposed development would thus cause a further degree of less than substantial harm to the CA to be weighed against any benefits, even accepting that some compensatory landscaping of the site could be secured by condition.

Benefits

14. The primary intention of the proposed development is to improve both vehicle manoeuvrability within the appeal site and highway safety at the entrance. Increased manoeuvrability around the on-site car park would reduce the potential for dangerous reversing onto the public highway or vehicle conflict at the entrance. The lowering and realignment of the boundary walls would plainly enhance the currently compromised access visibility along the road, close to a series of road junctions and where there is no footway along the site frontage.
15. Notwithstanding that the need for development is questioned by the Council, in my judgement, it would bring material benefit in terms of safety to both residents and staff of Brook House, as well as the wider public using the local highway network.

Planning Balance and Conclusion

16. In my view, the less than substantial harm to the CA, due to the partial removal, lowering and realignment of the boundary walls alone, would be marginally outweighed by the planning benefits I have identified.
17. However, in my overall judgement, the increased degree of less than substantial harm due to the additional removal of the protected conifer tree, in the scheme as refused by the Council, would significantly outweigh those planning benefits.
18. For this reason, I consider that the proposed development, as a whole, would be in significant conflict with some provisions of all the policies of the adopted Teignbridge Local Plan cited in the reason for refusal. In particular, Policies S1 and EN5 seek to protect the historic heritage of Dawlish, whilst Policies S2, WE8 and EN12 safeguard the landscape and valued trees. All these policies are essentially consistent with the NPPF.
19. I have considered every other matter raised in the written evidence, but none affect my overall conclusion that the proposed development would be contrary to the development plan as a whole, and that the present appeal must be dismissed.

B J Sims

INSPECTOR