



Appeal Decision

Site visit made on 5 January 2021

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 January 2021

Appeal Ref: APP/C3430/W/20/3245585

16 Brantley Crescent, Bobbington, Stourbridge DY7 5DB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr D Morgan (M and W Contractors Limited) against the decision of South Staffordshire Council.
 - The application Ref 19/00659/FUL, dated 28 August 2019, was refused by notice dated 29 October 2019.
 - The development proposed is described as new detached three bedroom dwelling house with integral garage (resubmission of 19/00145/FUL).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the oak tree on the site.

Reasons

3. The oak tree lies in the rear corner of the plot but can be seen over and to the side of houses from nearby roads. It is the subject of a tree preservation order, of a significant size and is in good condition. The oak makes a positive contribution to the area's character and local distinctiveness.
4. Crown lifting and light pruning works are proposed but nevertheless the tree's branches would overhang most of the dwelling's back garden. Consequently, it is likely that the garden would be the subject of significant detritus such as leaves, acorns, twigs, branches and bird excrement falling from the oak. Furthermore, the tree's canopy would darken the back garden although it would not block direct sunlight for parts of the day.
5. No application to carry out works to the tree have been submitted previously, which suggests it causes no significant problems to existing properties. However, most of the proposal's back garden would be affected by the oak. As such, it is likely the development would lead to pressure from future occupiers to carry out tree works to address safety and nuisance issues associated with detritus and shading. Such operations would require the Council's consent but they may be difficult to resist given that safety or property damage could be at issue. Furthermore, there is no guarantee that the suggested on-going tree maintenance works would avoid requests to carry out more substantial operations by residents of the proposal.

6. The house could be constructed without causing unacceptable direct damage to the tree or its roots. However, BS 5837:2012 states that incompatibilities between development layout and retained trees and future pressure for removal should be considered in the design of proposals. For the reasons set out above, the oak is likely to cause nuisance and apprehension to future occupiers and so the proposal does not adequately take account of the tree.
7. As such, I conclude that the development would lead to harm to the oak and so in this regard it would be contrary to policy EQ4 of the South Staffordshire Core Strategy 2012 (CS). This aims, amongst other things, to ensure development takes account of components of the landscape and local distinctiveness, including existing vegetation. The Council's refusal reason also refers to CS policy EQ1. This relates to sites of nature conservation value and ancient woodlands and so is irrelevant to this appeal.

Conclusion

8. The proposal would conflict with the development plan and material considerations do not lead me to a decision otherwise. Therefore, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR