

Appeal Decision

Site visit made on 28 February 2017

by **Andy Harwood CMS MSc MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 April 2017

Appeal Ref: APP/R3325/W/16/3162155

1 Wadham Close, Ilminster, Somerset TA19 9BA

- 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 Derek Blezard against the decision of South Somerset District Council.
 - The application Ref 16/03479/FUL, dated 1 August 2016, was refused by notice dated 28 September 2016.
 - The development proposed is the erection of a small building to provide ancillary accommodation for house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The first main issue is whether the proposal would preserve or enhance the character or appearance of the adjacent Conservation Area (CA), having regard to any effect of the development on the ash tree at the neighbouring property 'Hazelwell House' (No 36) Station Road. The second main issue is the effect of the proposal on the character and appearance of the area and on the setting of the CA, and whether the setting of nearby listed buildings at Nos 33 and 36 Station Road would be preserved.

Reasons

Effect on the ash tree

3. The appeal site is within a group of modern dwellings raised above and to the north of Station Road which slopes down from the town centre of Ilminster in front of the site. The site is outside but adjoins the CA which covers a wide area including land to the immediate west and south. Buildings within the CA are of a more traditional character than the detached bungalow on the site, which is set well back from Station Road.
 4. Immediately adjoining the western boundary of the site is the garden of No 36 which is a grade II listed building and which is within the CA. The main part of No 36 is constructed of stone and there is a side wing with a rendered finish set away from the mutual boundary with the site. The building is at a much lower level than the appeal site. There is a substantial gap between the side of that building and the retained higher land within the appeal site.
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5. On approaching downhill from the east, walls and fences alongside Station Road partially obscure the view of the site. However the rendered side elevation of No 36 is partly visible through the lower limbs of the ash tree that is positioned within the CA. This tree stands out above and to the north of the listed building at No 36 framing the dwelling and providing a strong, attractive feature on the edge of the CA. It has a high amenity value which is significant within the CA and along with other landscaping, softens the boundary of the CA providing a buffer between the appeal site and No 36.
6. The tree root system of the important ash tree will already be affected by the topography of the area and existing built structures and it appears to me that further potentially harmful effects would arise from the proposed development. The submitted site plan shows that the canopy spread of the tree would be above the north-west corner of the proposed building. The tree is higher than the land that surrounds No 36. It seems likely that the roots extend into the land at a similar level within the appeal site given the drop in levels close to No 36. Consequently, there may be a substantial amount of rooting in the area that would be required for the foundations. Yet no arboricultural evidence has been submitted to support the proposal. Thus the extent of any potential harm is unclear. Moreover, the appellant states that excavation would also be required to provide a level site for the annex which could have a further impact on the roots of the tree in my view.
7. There is insufficient information to demonstrate that the ash tree could be retained without long term harm to its amenity value and life-span. There is also insufficient information to give me confidence that imposing a planning condition to require tree protection measures would be effective. The loss of the tree would cause clear harm to the CA. Other landscaping and replacement planting would not overcome my concerns. In the circumstances, I consider that a precautionary approach is necessary.
8. In relation to the main issue due to the likely impact of construction works upon the ash tree, the development would not preserve or enhance the character or appearance of the CA. The proposal would not comply with policies EQ2 and EQ3 of the South Somerset Local Plan (2006-2028), adopted March 2015 (LP).

Setting of the CA and listed buildings

9. The proposed building would be positioned towards the end of the site, close to the existing boundary planting and behind the timber fence adjoining Station Road. The site is raised up from the level of Station Road but the building would be dug down into the site. The roof would be slated, hipped on all sides and although it would protrude above the timber boundary fence, it would be angled away from the road behind the existing landscaping.
10. From the road to the south, the roof of the proposed building would be seen in front of the existing modern dwelling on the appeal site. Further modernisation of that side of the dwelling would also occur if the approved extension is eventually implemented.
11. The proposed building would be a substantial distance from the side of No 36, would be lower and separated from it by fencing and landscaping. The proposed building would be seen from some locations in the same field of view as No 36 but on approach downhill from the east, would not obscure much of

the side wall. The roof with a pitch and materials similar to the listed building would appear co-ordinated with it. The rendered walls would also reflect materials used in that adjoining building and others nearby. The proposal would have a minor, harmless visual impact upon the adjoining listed building.

12. On the opposite side of Station Road, No 33 is another grade II listed building which fronts onto a short path and is at a lower level than the appeal site. The road and footpaths are between that building and the appeal site. The proposed building would be at a substantial distance from that building and would not affect its setting.
13. The proposal would have a very limited impact upon the settings of the CA and the listed buildings at Nos 33 and 36 Station Road. In relation to the second main issue, the proposal would not have a harmful impact on the character and appearance of the area which would preserve the setting of the CA and the settings of the nearby listed building at 33 and 36 Station Road. In these respects, the proposal would comply with LP policies EQ2 and EQ3.

Conclusions

14. It is not clear that the potential harm to the ash tree would result in any harm to biodiversity within the area. I have not therefore identified any breach of LP policy EQ4. Pre-application advice from the Council was given to the appellant prior to the submission of this and a previously refused application (Ref 16/02024/FUL). The Council did not explicitly draw attention to the need for evidence from a tree expert within that advice. However this does not overcome the concerns that I have about the possible impacts upon the important tree.
15. The harm to the CA would not be substantial but I give great weight to the conservation of the designated heritage asset. There are no public benefits that would outweigh this less than substantial harm and the lack of harm in relation to the second main issue is a neutral matter. The proposal would not comply with the advice at paragraph 134 of the National Planning Policy Framework.
16. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be dismissed.

Andy Harwood

INSPECTOR