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## Appeal Decision

Site visit made on 20 June 2017

**by Andrew McCormack BSc (Hons) MRTPI**

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

**Decision date: 31 July 2017**

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**Appeal Ref: APP/W4705/W/17/3171740**

**18 The Orchards, Bingley BD16 4AZ**

- 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 Paul Procter against the decision of City of Bradford Metropolitan District Council.
  - The application Ref 16/06681/FUL, dated 1 August 2016, was refused by notice dated 7 October 2016.
  - The development proposed is detached house and garage.
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### Decision

1. The appeal is allowed and planning permission is granted for a detached house and garage at 18 The Orchards, Bingley BD16 4AZ in accordance with the terms of planning application Ref: 16/06681/FUL dated 1 August 2016 and subject to the conditions set out in the schedule attached to this decision.

### Procedural Matters

2. The appeal statement from the Council was submitted after the set deadline and has therefore not been accepted. As a result, I have determined this appeal on the basis of the evidence before me. In the case of the local planning authority, this comprises the officer report and a list of suggested conditions to be considered were the appeal to be allowed.
3. The Council adopted the Bradford Core Strategy (CS) on 18 July 2017. Following this, the Council has indicated that Policies UR3, D1, D5, NE4, NE5 and NE6 of the Bradford Replacement Unitary Development Plan have now been superseded by Policies SC9, DS1, DS2, DS3, DS4, DS5 and EN5 of the CS. Furthermore, the Council has confirmed that there is no significant material change in the policy position regarding this case arising from the adoption of the CS. Therefore, I find that neither the Council's nor the appellant's case is materially affected by the change in policy context. As a result, I have determined the appeal within the most up-to-date policy context.

### Main Issues

4. The main issues are the effect of the proposed development on the:
  - character, appearance and visual amenity of the surrounding area, with particular regard to nearby trees; and
  - living conditions of future occupiers with regard to daylight.

## Reasons

### *Character and appearance*

5. The appeal site is within the garden area of 18 The Orchards (No.18) which is a cul-de-sac from which the site is highly visible. The area is predominantly residential and is characterised by large detached dwellings on well established, landscaped plots. The site has several protected and newly planted trees and shrubs and slopes downwards away from the public highway from east to west. The slope leads down to a wooded area of mature trees which form the west and north boundaries of the site.
6. The area consists of dwellings with a variety of styles and designs. Whilst properties use similar materials which provide a consistent thread through the nearby dwellings, the local area has a mixed character and appearance. The Council states that the prominence of a garage door and the relatively blank street elevation of the proposed dwelling is not of sufficient design quality to be acceptable and would be materially harmful to the streetscene.
7. I note that some nearby properties have main frontages which face the public highway and others do not. Similarly, other properties have double garage doors facing the highway, whilst others do not. It is evident that there is no one uniform or dominant style of property in terms of layout and design within the streetscene. I find that the proposed dwelling has been designed to reflect that variety in design and layout with regard to buildings and the broader pattern of development.
8. Whilst the double garage door of the proposed dwelling would limit the active street frontage of the east elevation, other features such as the main entrance to the dwelling, albeit set back from the street, would provide some interest to the streetscene. The design of the proposed east elevation and wider dwelling has sought to respond to the physical constraints of the site and the irregular pattern of development in the area. In my view, this would be positively achieved. The dwelling would not appear as a bold, oversized and dominant property from the street but rather as a modest two storey dwelling which would be in keeping with the scale and proportions of neighbouring properties.
9. Furthermore, the materials indicated for the proposed dwelling would be similar to nearby properties and would reflect and respect the local vernacular and streetscene. Moreover, I note that the Council's Design and Conservation Team have raised no objection relating to the design of the proposal nor have any planning conditions relating to such matters been sought.
10. The Council argues that the proposed dwelling would have an adverse impact on the established, protected trees on the site which would be detrimental to the visual amenity of the area. Notwithstanding this, there is no evidence to indicate that the proposal would result in the loss of any protected or newly planted trees and I note the appellant's intention to retain and maintain all trees on the site. Furthermore, I acknowledge the appellant's intention to employ appropriate construction methods and techniques to ensure the protection of the trees and their root protection areas (RPA). The details of which are outlined in the appellant's supporting documents which formed part of the planning application.

11. The appellant's Arboricultural Method Statement and other supporting evidence refers to pile and beam foundations. I note that this technique would apply particularly to the construction of the garage and would mitigate any harm to the existing RPAs close to the proposed garage along the north and east boundaries of the site. Having had regard to the methods and techniques involved and with no substantial technical evidence before me to the contrary, I am satisfied that this approach would avoid any significant adverse impact on the RPAs of trees on the site and that this could be secured through a suitably worded condition.
12. From what I have seen and read, the proposal would not result in the loss of any protected or newly-planted trees. As such, I find that the dwelling would be set within the existing verdant context of the site. Furthermore, it would be of a design which has regard to the slope on the site and the presence of trees. The mature woodland area to the west of the site would provide an appropriate backdrop to the verdant setting of the dwelling, particularly when viewed from the street. In addition, I note that the newly planted birch trees would form a natural boundary between the proposed dwelling and No.18.
13. Having regard to the above, I find that the proposal would result in a dwelling being located within an established residential area. Whilst it would inevitably alter the appearance of the area, its visual impact would be limited due to its position within the verdant context of the site provided by the existing trees. Furthermore, I find that the design, scale, materials and location of the proposed dwelling would not be at odds with the character and appearance of its surroundings.
14. Consequently, I conclude that the proposal would have no significant adverse impact on the character, appearance and visual amenity of the surrounding area with particular regard to nearby trees. Therefore, it would accord with Policies SC9, DS1, DS2, DS3, DS4, DS5 and EN5 of the Bradford Core Strategy 2017 (CS). Amongst other matters, these policies seek to ensure that development is of a high quality design that has regard to and respects the character, appearance and visual amenity of its surroundings.

*Living conditions: daylight*

15. The Council argues that the position of the proposed dwelling on the site, much of which is in shade for significant parts of the year due to the existing trees, would have a detrimental effect on the amount of daylight any future occupiers would be likely to enjoy. Furthermore, it is argued that the crowns of the trees would overshadow the property which would lead to increased pressure to cut down or lop the trees. As a result, this would have an adverse impact on the visual amenity, character and appearance of the area.
16. I note that the proposed dwelling would have several windows in all elevations. In addition, the floorplans indicate that the layout of the property would be open plan in part. These features of the proposal would assist in providing daylight into the dwelling. From the shade plans I note that the north and west elevations of the proposed dwelling would be largely in shade for considerable periods of time. Notwithstanding this, I note that these elevations would mostly serve bedrooms, bathrooms and a utility room where the need for extensive amounts of daylight would be relatively low.

17. I acknowledge that the lounge, dining and kitchen area on the upper ground floor would have windows to the north and west elevations. However, I find that the open plan nature of that part of the proposed dwelling and the number of windows to the west and south elevations would reduce the impact of trees shading the property in that area. As a result, whilst I appreciate that the impact of the existing trees on the proposed dwelling with regard to shading would be apparent, I find that it would not be so significant as to warrant a reason for refusal in this case.
18. The site currently enjoys a significant amount of daylight as a private garden. Whilst the proposal would introduce a substantial amount of built development to the site, this would not be out of keeping with other large, detached properties in the area where mature trees are close to windows. The shading of properties by nearby trees is not uncommon in the area and it does not appear to result in any adverse impacts on the living conditions of occupiers or the character and appearance of the area. Given the context of the appeal site, it is inevitable that parts of the proposed dwelling and garden would regularly be in shade at certain times of the year. However, there are areas of the site which would remain unshaded. As a result, I find that such an impact would have only a limited impact on the living conditions of future occupiers.
19. The Council argues that the proposal would likely increase pressure from future occupiers to fell or lop trees due to their future growth to increase daylight to the property which would be to the detriment of visual amenity. In the event that such an application were to occur, there are specific policy safeguards in place to ensure that protected trees would remain in situ unless there are exceptional reasons for their removal. Furthermore, the local planning authority has appropriate enforcement powers which it could use were any removal of trees undertaken without consent. As a result, a degree of control over the retention of such trees remains with the local planning authority.
20. Notwithstanding the appellant's comments regarding their intention to live at the proposed dwelling and to retain all trees on the site, I find that whilst the surrounding trees would have some impact on daylight, the impact would not be so significant as to result in any material loss of daylight to future occupiers. Furthermore, the shading and dappled light which would likely result would be a benefit of the scheme which would reflect the verdant character and appearance of the streetscene and surrounding area. As a result, I find that such benefit would outweigh any detrimental impact on daylight.
21. Consequently, I conclude that the proposal would have no significant adverse effect on the living conditions of future occupiers of the proposed dwelling with regard to daylight. Therefore, it would comply with Policies SC9, DS1, DS2, DS3, DS4, DS5 and EN5 of the CS. Amongst other matters, these policies seek to ensure that development proposals have no significant detrimental impact on the living conditions of future occupiers, including loss of daylight.

### **Other Matters**

22. Concerns have been raised by an interested party which has not been addressed through the substantive issues. These relate to the impact of the proposal on the living conditions of the occupiers of 14 Larch Grove (No.14). I have had due regard to the issues raised. However, whilst I appreciate the importance of such matters to those affected, I find the distance between the proposed dwelling and No.14 to be significant. Moreover, given the substantial

intervening tree cover between the two properties, I find that the proposal would have no adverse impact on the privacy of the occupiers of No.14. As such, I have not given any further consideration to these matters in determining this appeal as doing so would not alter my decision.

### **Conditions**

23. I have had regard to the planning conditions suggested by the Council. Where necessary, and in the interests of conciseness and enforceability, I have altered the conditions to better reflect the Planning Practice Guidance.
24. In addition to the standard implementation condition relating to time (1), I have imposed a condition relating to external surface materials (3) which is necessary and reasonable in the interests of providing certainty and for reasons of character and appearance. A condition relating to the details and implementation of foul and sewage water drainage (4) is necessary in the interests of the living conditions of future and neighbouring occupiers.
25. Conditions 5, 6 and 7 relate to the protection of existing trees on the site with regard to site preparation and construction works which are to be carried out in accordance with an Arboricultural Method Statement. These conditions are necessary and reasonable in the interests of visual amenity, the retention of protected trees and for reasons of character and appearance. A further condition relating to off-street parking (8) is necessary and reasonable in the interests of living conditions and for reasons of highway safety.
26. I have imposed an additional condition (2) relating to the dwelling permitted being constructed in accordance with approved plans. This is necessary and reasonable in the interests of providing certainty and for reasons of character, appearance and visual amenity of the area.
27. It is necessary that the requirements of Conditions 3, 4 and 5 are agreed prior to development commencing to ensure an acceptable development in respect of the living conditions of future and neighbouring occupiers, visual amenity and the character and appearance of the area.

### **Conclusion**

28. The proposed dwelling would contribute, albeit modestly, to the Council's significant shortfall in housing provision and would create economic benefits through the creation of local construction jobs, an increase in Council Tax revenue and New Homes Bonus. Furthermore, it would provide a high quality dwelling which would respect and reflect the local vernacular and protect the natural and built environment. Although such benefits are modest, they should be afforded due weight in this case. As a result, based on the evidence before me, I find that there would be no significant harm resulting from the scheme which would outweigh the benefits.
29. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed and planning permission granted.

*Andrew McCormack*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans, as received by the local planning authority on 5 August 2016: 'Location Plan'; 'Roof Plan'; Drawing No. 208/1 - 'Floor Plans'; Drawing No. 208/2 - 'Elevations'; Drawing No. 208/3 - 'Planning Layout'; Drawing No. 208/4 - 'Site Entrance During Construction Period - Proposed Services Trench & Drainage (Phase 1)'; Drawing No. 208/5 - 'Site Entrance During Construction Period - Proposed Services Trench & Drainage (Phase 2)'; Drawing No. 208/6 - 'Sections'; and Drawing No. 208/7 - 'Phase 2 - Garage & Drive Construction & Ground Protection'
- 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall commence until details of a scheme for separate foul and surface water drainage, including any existing water courses, culverts, land drains and any balancing works or off-site works, have been submitted to, and approved in writing by, the local planning authority. Surface water must first be investigated for potential disposal through use of sustainable drainage techniques and the developer must submit to the local planning authority a report detailing the results of such an investigation together with the design for disposal of surface water using such techniques or proof that they would be impractical. The scheme so approved shall thereafter be implemented in full before the first occupation of the dwelling.
- 5) No development, demolition, site preparation, or groundworks shall commence or any materials or machinery be brought on to the site until temporary tree protective fencing has been erected in a phased manner in accordance with the submitted details on Drawing Nos 208/4 and 208/5. The temporary tree protective fencing shall be driven at least 0.6 metres into the ground and remain in the location as shown in the approved tree protection plan and shall not move or be moved, other than in response to the phasing, for the duration of the development. The local planning authority must be notified in writing of the completion of erection of the temporary tree protective fencing for each phase and have confirmed in writing that it is erected in accordance with the approved tree protection plan. No development, excavations, engineering works and storage of materials or equipment shall take place within the root protection areas for the duration of the development without written consent by the local planning authority.
- 6) All works associated with the development hereby permitted shall be carried out in strict accordance with the Arboricultural Method Statement produced by Iain Tavendale (received by the local planning authority on 10 August 2016) at all times.
- 7) The foundations of the development hereby permitted shall be constructed through the use of a concrete slab and micro-pile system as specified in Drawing No. 208/7. The positioning of individual piles shall be determined through manual excavation to ensure that root system impacts are minimised. The developer shall notify the local planning authority at least seven days prior to the commencement of piling activities and afford access to any arboricultural specialist nominated by the local planning authority so that this activity can be monitored.

- 8) Prior to any part of the development hereby permitted being brought into use, the off-street car parking shall be constructed of porous materials, or made to direct run-off water from a hard surface to a permeable or porous area within the curtilage of the site, and laid out with a gradient no steeper than 1 in 15. The parking so formed shall be retained whilst ever the use hereby permitted subsists.

**END OF SCHEDULE**