



# Appeal Decision

Site visit made on 20 July 2009

by **Julie Higginbottom BA(Hons) BTP**  
**MRTPI**

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

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Decision date:  
28 September 2009

**Appeal Ref: APP/R3325/A/09/2103333**

**Land at The Manor, Cross Lane, Long Sutton, Langport, Somerset TA10 9LR**

- 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 S A Pledger Ltd against the decision of South Somerset District Council.
- The application Ref 08/00577/FUL, dated 4 February 2008, was refused by notice dated 24 October 2008.
- The development proposed is described as alterations to the existing access drive and walls and erection of new dwelling.

## Decision

1. I dismiss the appeal.

## Main issue

2. The main issue is the effect of adjoining trees upon the living conditions of future occupiers of the proposed dwelling.

## Reasons

3. The appeal proposal is for the erection of a 2-storey dwelling within the Long Sutton Conservation Area and the curtilage of a range of Listed Buildings. Listed Building Consent has been granted for the alterations to the boundary wall to form the visibility splays for the proposed access. The side elevation of the proposed house would be within 1m of the boundary to the west of the appeal site. This boundary contains a walnut tree and a number of leylandii which are not within the ownership of the appellant company. Being tall trees, they make an important contribution not only to the setting of the appeal site and the adjoining houses, but to the wider Conservation Area. The dwelling would be sited within the canopy of the walnut tree, which overhangs the site by some 3m, and the rear garden would be alongside the leylandii.
4. The living room of the proposed dwelling would have 2 windows in the front elevation (north) together with south-facing French windows. In my opinion these French windows would be particularly important as they would provide the main, private outlook over the garden from this habitable room. Due to the combined height and position of the neighbouring trees in relation to the proposed dwelling, coupled with the evergreen nature of the leylandii, I consider that they would have an unduly prominent and overbearing impact on the outlook from the south-facing rooms, in particular the master bedroom and the living room.

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5. In addition, it seems to me that the existing trees would significantly curtail the light received by a number of windows including the French windows that I have already indicated are an important aspect to the living room. This would be likely to lead to pressure from future occupiers for pruning or requests for the removal of the trees to improve daylight. Indeed, the appellant company's *Climate-based analysis of Daylight Availability* study (the daylight study) concludes that if the tree canopies are not trimmed back to the boundary, the dwelling would potentially experience daylight levels within a 50% range of the norm for affected windows, which would be significantly discernable for occupants, and have a substantial impact on future occupier's living conditions.
6. However, the daylight study further notes that trimming back the trees to the boundary might not be possible in the interests of good arboricultural husbandry. In any case, such trimming is only predicted to bring daylight levels to within 10% of the norm, and even if this could be achieved for the affected rooms, I am not convinced that trimming the trees back to the boundary would allow sufficient daylight to penetrate habitable room windows to create an enjoyable living environment. In view of these points, and as the study does not appear to contain any clear assessment of the implications of future growth of the trees, I am not persuaded that trimming of this extent would be possible or reasonable in practice, or would necessarily produce the living conditions claimed by the appellant.
7. Within the garden, the hard landscaped area proposed adjacent to the French windows, and a considerable part of the useable part of the garden, would be dominated by the tall trees as illustrated in the daylight study. Even if the overhanging branches were cut back to the boundary, I consider that the height of the trees would still have an unacceptable overbearing impact on the garden.
8. However, given that the orientation of the proposed house would be almost east/west, the occupiers' private amenity area in the rear garden would benefit from sunlight for most of the day and only lose it in the afternoon, depending on the time of year. As a result I consider that the rear garden would receive sufficient sunlight so that the amenities of the future occupiers would not be harmed in this respect to an unacceptable extent. I have noted the Council's concern that the neighbouring trees would enhance the potential for moss and lichens but this would be a maintenance issue for future occupiers and, in my opinion, does not weigh heavily against the proposal.
9. I share the Council's view, however, that siting a new dwelling within close proximity to such large trees would inevitably cause apprehension from future occupiers, which could well lead to requests for felling which would be difficult to resist. As already noted, the existing trees would overhang the proposed dwelling and would clearly lead to concern over safety and maintenance from future occupiers. Even after pruning, the house would be close enough to and dominated by these trees for them to be perceived as a threat in terms of falling branches and other nuisances, raising the desire to remove them.
10. Taking all the above points into account, and despite my positive findings with regard to loss of light to the garden, I conclude that the living conditions for future occupiers of the proposed dwelling would not be acceptable. The Council contend that the proposal would conflict with Policy ST6 of the South Somerset Local Plan. However, whilst this policy monitors the harm to residential amenity

of occupiers of adjacent properties it does not specifically refer to the living conditions of future occupiers of development. Nevertheless, it is my assessment that by failing to provide acceptable living conditions for future occupiers the proposal would not represent the good design sought by national planning policy in Planning Policy Statement 1: *Delivering Sustainable Development* and Planning Policy Statement 3: *Housing*.

### **Other matters**

11. The impact of pruning or loss of the trees on the character and appearance of the Conservation Area and the setting of Listed Buildings were not cited by the Council as a reason for refusal in the decision notice, although the various considerations were addressed in Officer's Report and have been raised in the representations made by interested persons. The appellant company has had the opportunity to comment on these representations and I have taken their comments into account in determining the appeal.
12. As already noted, I have found that the relationship between the proposed dwelling and the neighbouring trees would be uncomfortable and very likely to result in requests for pruning (creating an unnatural flat-sided canopy) or felling of the trees. Notwithstanding the fact that the trees may not be worthy of protection in their own right, I consider their retention to be important in creating a good streetscape and preserving the overall high quality of development that is inherent to the character and appearance of this part of the Conservation Area and the setting of these Listed Buildings. In my view, any severe pruning or felling would be contrary to Policy ST6 of the Local Plan, in that the design of the proposed dwelling would not respect the presence of the neighbouring trees. Moreover, as a result this harm to the natural environment the proposal would fail to preserve the character and appearance of the Conservation Area.
13. Third parties have raised concerns on a wide range of topics. However, I am not persuaded that any of them weigh heavily against this proposal. In terms of materials, the use of natural stone would be appropriate in this setting. There would be no gable windows facing Little Thatch and the proposed separation distance with Girton House would be sufficient to avoid any harmful reduction in privacy. Whilst this green space does make some contribution to the Conservation Area, a dwelling of good design and materials could make a positive contribution to the streetscene without appearing to be cramped. Sufficient car parking would be provided and the highway department raise no concern with traffic volume or highway safety. Furthermore, the proposal would maintain access to the church. The site is outside a flood risk area and surface water drainage details could have been secured by condition had I been minded to allow the appeal.

### **Conclusion**

14. Despite my favourable findings on some of these latter points, my adverse conclusion on the main issue, coupled with the likelihood of a harmful impact on the Conservation Area, mean that on balance this proposal is not acceptable. In reaching this decision I have taken into account all other matters raised, including the fact that the appeal site is previously developed land, is in a sustainable location and that there are national guidance and development plan policies which promote the development of such land. However, to my mind

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these factors are not sufficient to outweigh the harm to specific planning objectives that I have found. I therefore dismiss the appeal.

*Julie Higginbottom*

INSPECTOR

