



Appeal Decision

Hearing held on 15 December 2009

by **Nicholas Hammans FRSA FRTPI FRGS
PPBEng**

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

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Date:

- 7 JAN 2010

Appeal Ref: APP/TPO/R3325/754

Pastures Green, 49 Thorndun Park Drive, Chard, Somerset TA20 1DH.

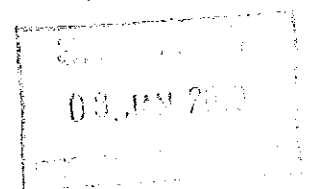
- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent to undertake work to trees protected by a Tree Preservation Order.
- The appeal is made by Ms Susan King against the decision of South Somerset District Council.
- The application Ref: 09/02014/TPO dated 20 May 2009 was refused by notice dated 7 July 2009.
- The work proposed is to fell three Oak trees and carry out tree surgery work to three Oak trees.
- The relevant Tree Preservation Order is SSDC (Chard No 4) TPO, which was confirmed on 20 December 2006.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Mrs King ably presented her own case, unrepresented. In her grounds of appeal, representatives on her behalf had suggested various options, including pollarding one oak tree instead of felling it, and crown-lifting three others instead of trimming them back. She emphasised at the Hearing that notwithstanding any of these alternative suggestions, she proposes to fell three trees which she identified, and extensively to reduce three other trees near the rose-bed in her garden. She indicated the extent of the proposed reductions on site. These, her final proposals, are consistent with the terms of her original application dated 20 May 2009 and form the basis of my decision.
3. She confirms that she has no intention of selling any part of her garden affected by the Order. She made enquiries about felling the trees in July 2006. In December 2006 the Tree Preservation Order was confirmed, notwithstanding her objections. This Order relates exclusively to trees on her property, all as a group. It was explained at the Hearing that this is not an appeal against the Order itself: it is an appeal against the decision of the Council to refuse permission for the specified works to the protected trees.
4. The Council asserts that unauthorised work has been carried out to several of her trees in recent years. It was confirmed at the outset of the Hearing that she is aware of the penalties for damage to any protected tree. However, this is not an appeal against any enforcement action currently



contemplated by the Council. A letter, submitted on her behalf and dated 18 October 2009, states that she agrees not to carry out any future works unless specifically notified by the Council. At the Hearing Ms King confirmed her agreement. My decision therefore is based on my own independent appraisal of the trees, as I found them at the date of the Hearing and, with the agreement of both parties, I turned away late submissions offered at the Hearing which related to the former appearance and earlier planning history of the trees.

Main Issues

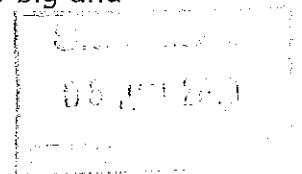
5. The first main issue is to consider the contribution which this group of trees make to the amenity and character of the neighbourhood; and the effect of the proposal to fell three of them and to cut back three others. The second issue is to consider the justification for the proposed works.

Reasons

6. Thorndun Park Drive leads through housing estates in which mature hedgerow trees have been conserved. It is the policy of the Council as Local Planning Authority to preserve features of the existing landscape. The remnants of ancient hedgerows still lie behind buildings in Britannia Way, Thorndun Park Drive, Bonds Close and Helmstedt Way in the neighbourhood of the application site. These form a leafy backdrop to suburban dwellings, softening the appearance of the built environment. These hedgerows support mature trees, many of which are subject to Preservation Orders made in the 1980s
7. One remnant hedgerow now follows the back boundary of the appeal site, 49 Thorndun Park Drive. It was retained when the adjacent properties were built; it has partly collapsed and eroded, but it still supports a linear group of oak trees which rise above the roof-line of the appellant's bungalow. I saw on my visit that some of these trees have been reduced in the past, so that their canopies are smaller than the mature specimens further along the hedgerow. Nevertheless, they have regenerated so that their canopies still constitute a coherent group and make a significant contribution to the residential amenity and distinctive character of the neighbourhood. I consider it was expedient for the Local Planning Authority to make a Preservation Order in response to the proposed felling of the subject trees.
8. My inspection of the subject trees found that the group as a whole are interdependent. No individual tree in this group is a major specimen but, despite the severance of a root on one of the trees, they are all sound with a reasonable life expectancy. They have adjusted to their urban environment and they all exhibit a healthy, though reduced canopy. The removal of three trees would reduce this group to an unacceptable degree, and I do not think this would encourage the regrowth of the remainder. Crown-lifting would have enabled more light to reach some flower beds in the garden, but such a compromise would not be acceptable to the appellant.

Justification for felling and reduction of the trees

9. The appellant lives in a semi-detached bungalow on the end of a row of dwellings, with a triangular plot which fronts onto Thorndun Park Drive. Mrs King has restored this formerly neglected garden. She appreciates the beauty of the trees, but considers those in her garden are far too big and



they make it difficult to keep the garden tidy. Leaves and twigs fall into the garden; pruning is an expense, and the trees are higher than the bungalow. Nevertheless, I saw that the subject trees are on the north side of the property: they do not cast an oppressive shade over it, and I consider they contribute to the ambience of her property as they do the neighbourhood as a whole. Falling leaves, twigs and drip from the canopy are normal in relation to trees; but trees are an amenity appreciated by the public as a whole.

10. The appellant is concerned about the possible danger of one tree which overhangs the adjacent highway. However, this is not one of the trees which she hopes to fell and I saw no apparent danger in any of the subject trees.

Conclusions

11. No third-party representations were submitted in response to public notice of this appeal. My decision is based on my own appraisal of the amenity value of the trees, their condition and their contribution to the character and appearance of the neighbourhood. I have taken account of an estimate of cost for felling and crown-lifting, sent to Mrs King by a qualified arboricultural contractor, and all other matters raised in the evidence. If permission had been granted to fell and reduce these trees in accordance with her application, she would have agreed to plant replacement container-grown species of modest proportions on her garden plot. However, that would not adequately repair the significant loss of mature oak trees in the landscape. For the reasons given above I conclude that the appeal should be dismissed.

Nicholas Hammans

Inspector

APPEARANCES

FOR THE APPELLANT:

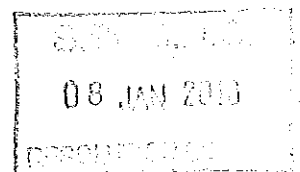
Mrs S King

Appellant.

FOR THE LOCAL PLANNING AUTHORITY:

Mr P Poulton, CertArb,
CertHEArb.

Arboricultural Officer, South Somerset District
Council.





Appeal Decision

Site visit made on 4 January 2010

by **Simon Miles BA(Hons) MSc MRTPI**

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

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Decision date:
12 January 2010

Appeal Ref: APP/R3325/A/09/2114757

1 Carlan Stepps, Broadway, Ilminster, Somerset TA19 9SD

- 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 & Mrs Robert Purser against the decision of South Somerset District Council.
- The application Ref 09/00491/OUT, dated 27 January 2009, was refused by notice dated 14 April 2009.
- The development proposed is erection of a dwelling house (single bungalow/garage).

Decision

1. I dismiss the appeal.

Procedural Matters

2. The appeal relates to an application for outline planning permission with all detailed matters reserved. A plan showing an indicative layout was submitted with the application. An amended plan showing an alternative layout was submitted with the appeal. It would not be appropriate for me to accept the amended plan as there is nothing to indicate that it has been subject to any public consultation. Moreover, because all detailed matters are reserved, these plans are in any event purely illustrative.

Main Issues

3. I consider these to be the effect of the proposed development on (i) the character and appearance of the area and (ii) the setting of the adjacent Grade II listed building, Stepps House.

Reasons

4. The appeal relates to a residential property situated at the junction of Carlan Stepps with Broadway Road. Carlan Stepps is a small development of houses set within moderately sized plots. Broadway Road contains a mix of older period dwellings and more recent housing development. I saw on my visit that the junction with Broadway Road has a spacious appearance, whereby buildings are set back from the road frontages. This serves to relieve the built form and is consistent with the semi-rural form and character of the existing settlement.
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5. When considered in this context, I am of the opinion that the proposed residential development, which would utilise the existing side garden adjacent to Broadway Road, would have a cramped appearance. This is because of the small size of the plot and the fact that any dwelling sited on this small area would inevitably be uncharacteristically close to the existing dwelling and site boundaries. Furthermore, any new dwelling on this site would intrude unduly upon the open character of the junction, greatly eroding its spacious character. All of this would be to the detriment of the spacious, semi-rural character of the settlement. Lowering the site level by some 0.6m, as suggested by the appellants, would not be sufficient to overcome my objections.
6. This leads me to conclude, on the first issue, that the proposed development would cause significant harm to the character and appearance of the area. I therefore find the proposal to be contrary to saved Policy STR1 of the adopted Somerset and Exmoor National Park Joint Structure Plan Review 1991-2011 (SP) and saved Policies ST5 and ST6 of the adopted South Somerset Local Plan (LP), insofar as these policies seek to ensure that development reflects local character, respects the form, character and setting of the settlement and locality and does not result in the unavoidable loss of open spaces, including gaps and frontages, with visual value.
7. The adjacent Grade II listed building, Stepps House, is a fine traditional stone farmhouse, of substantial size. The listed building is prominent in important public views along Broadway Road and makes a significant positive contribution to the wider character of the locality. Although the setting of the original farmhouse has undoubtedly changed over time, particularly with the erection of substantial new housing, the listed building nevertheless retains a reasonable impression of spaciousness around it, which is important to its setting.
8. Because of the small size of the plot, I consider that the proposed residential development would erode the spacious setting of Stepps House, even if the new dwelling were sited as far as possible from the common boundary. Any new dwelling would also impinge to a significant degree upon public views of the listed building from the west from within Broadway Road, obscuring at least part of the west elevation of the farmhouse. As above, the appellants' suggestion that the site level could be lowered by some 0.6m is insufficient to overcome my objections.
9. For these reasons I find, on the second issue, that the proposed development would cause significant harm to the setting of the adjacent Grade II listed building, Stepps House. The proposal is therefore contrary to saved Policy 9 of the SP and saved Policies ST5, ST6 and EH5 of the LP, insofar as these policies seek to ensure that the setting of buildings of architectural or historic interest and also the general form, character and setting of the locality and its historic heritage are maintained. Other policies mentioned by the Council are of a strategic nature and do not add significantly to my consideration of the appeal.
10. Whilst it is the case that national and local policies seeks generally to make more efficient use of previously developed land, this should not be at the expense of the quality of the existing environment. The appellants argue that the proposal would also contribute to rural economic development. The nature

and extent of any such benefits are not specified but, in any event, I consider the harm that I have identified above to be significant and over-riding. This leaves me in no doubt that the balance in this case weighs against approval. Therefore the appeal does not succeed.

Simon Miles

INSPECTOR