The Planning Inspectorate

Appeal Decision

Site visit made on 18 June 2024

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 November 2024

Appeal Ref: APP/Y3940/D/23/3332579
50 Church Street, Amesbury, Wiltshire SP4 7EU

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs Montgomery against the decision of Wiltshire Council.
- The application Ref is PL/2023/05294.
- The development proposed is proposed rear extension, dormer windows and conversion of existing garage.

Decision

1. The appeal is allowed and planning permission is granted for proposed rear extension, dormer windows and conversion of existing garage at 50 Church Street, Amesbury, Wiltshire, SP4 7EU in accordance with the terms of the application, Ref PL/2023/05294, subject to the conditions in the attached schedule.

Preliminary Matter

2. A revised National Planning Policy Framework (the Framework) was published on 19 December and updated on 20 December 2023. Whilst this made certain revisions to aspects of national planning policy, the provisions in respect of the matters relied on by the main parties are unchanged. Therefore, I did not need to consult with the main parties regarding the revised Framework.

Main Issues

3. The main issues are the effect of the proposed development on:

    - protected trees on the site and any consequent effect on the Grade II* listed Amesbury Abbey registered park and garden, and the extent to which it would preserve or enhance the character or appearance of the Amesbury Conservation Area (the CA); and

    - parking provision and any consequent impact on highway safety.

Reasons

Trees

4. The CA designation encapsulates the historic core of the market town of Amesbury together with Amesbury Park (part of which is a Scheduled Monument and the whole of which is a Grade II* listed 18th Century landscaped parkland) and the Grade I listed Amesbury Abbey. From what I have seen and read, as far as it relates to the appeal before me, I consider the special interest of the CA is, in part, derived from its attractive townscape, the retention of historically important construction materials and its landscape backdrop and setting formed by the parklands and the river valley, which together reveal its built evolution since its Saxon origin.

5. 50 Church Street is also within the Grade II* listed Amesbury Abbey registered park and garden. The significance of the registered park and garden is largely derived from its historic and aesthetical value, including its historical link to the Grade I listed Amesbury Abbey and the settlement of Amesbury, as an example of a 18th/19th Century park and garden, including 18th Century work by Charles Bridgeman.

6. The appeal site consists of a detached residential dwelling set within a large garden that includes woodland. In the woodland are two Plane trees (T1 and T2), which, as well as being in the CA, are subject of a Tree Preservation Order (TPO). The trees are impressive specimens that form distinct, mature and attractive features that could be seen from considerable distances. The trees thus make an important and positive contribution to the mature and verdant streetscape of the locality and to the character, appearance and special interest of the CA and the registered park and garden.

7. The Arboricultural Implications Assessment and Method Statement, complied by ecourban Arboricultural and dated June 2023, confirms that the proposed development would enter the Root Protection Area (RPA) of T1 and that there would be a slight incursion into the RPA of T2. The report states that the development would occupy 19 square metres of T1's total RPA of 707 square metres and this would represent 2.7% of the total RPA.

8. British Standard 5837:2012 advises that if rooting is indicated to be asymmetrical, a polygon of equivalent area should be produced. The presence of a watercourse near to the trees potentially means that the trees' roots have spread further towards the existing dwelling in an asymmetric manner. However, even if the RPA of both trees do extend further towards the dwelling, much of that area is already disturbed by the dwelling and existing hard standing. As such, the increase in the proportion of the RPAs of both trees that could be occupied by the development would not be significant.

9. Furthermore, the impact on the roots of the trees can be mitigated through protective measures during the construction process and an engineering solution for the foundations of the dwelling, including the avoidance of excavating and grading the existing ground levels. The trees themselves can also be protected through the temporary erection of fencing to prevent machinery and the storage of materials taking place near them. These are measures that can be secured through a suitably worded planning condition.

The attachment of such a condition and the minimal encroachment into the RPA means that the proposed development would have a minor effect on the protected trees during the construction process.

10. The proposed development would result in the built form coming closer to the trees. However, the vast majority of the extension would not be directly under the tree canopies and therefore not below falling branches. Further, given the position of the extension in relation to the trees, there would be little overshadowing caused by the trees. I do not dispute that it is good practice to manage trees, particularly to ensure their health in the long term, and that sensitive works should not compromise the visual amenity of trees. However, the evidence before me does not sufficiently demonstrate that such works would be necessitated by the proposal or that they would affect the trees. Moreover, there is no reason to assume that any potential future works to prune the trees would not be carried out in accordance with best industry practice. I also note that there is no tangible evidence to demonstrate that a future enlargement of the parking area into the RPAs will take place.

11. For these reasons, I conclude that the proposed development would not cause a significant detrimental impact on the health of the TPO trees. Furthermore, there is no substantive and demonstrable evidence before me to suggest that the proposed development would lead to pressure to prune the TPO trees in a manner that would fail to preserve the character and appearance of the CA, or which would harmfully affect the significance of the Grade II* listed Amesbury Abbey registered park and garden. Consequently, there would be no conflict with Policies 57 and 58 of the Wiltshire Core Strategy (2015) (CS), which seek, in part, the retention of trees and for development to protect, conserve and where possible enhance the historic environment. Additionally, there would be no conflict with the Framework, insofar as it seeks to retain trees and for designated heritage assets to be conserved.

Parking provision

12. The appeal dwelling has four bedrooms. Section 7.2 of the Wiltshire Local Transport Plan 2011-2026 – Car Parking Strategy sets out that the expected minimum parking spaces for a dwelling with four or more bedrooms is three spaces.

13. The proposal would involve the loss of the integral garage, but there would not be an increase in the number of bedrooms in the dwelling. The integral garage is a feature of the dwelling that was constructed in the past when vehicles were significantly smaller. As such, it would be difficult to park a vehicle in the garage unless it is a small car. In addition, the Car Parking Strategy states that the Council has decided not to include garages as part of the allocated parking provision except where there are overriding design considerations. The document explains that car ports which are unlikely to be used for storage could therefore count towards allocated parking provision.

14. The garage therefore does not represent a practical and useable form of parking for all types of vehicles, and this means that it is not reasonable to include it as part of the existing parking provision at the property. With this

in mind, the proposal would not result in a material loss of parking provision on site.

15. The above aside, even if the garage was to be considered as part of the existing parking provision, the access to the property is off a private access, not the public highway. The parking of vehicles on the private access instead of within the garage would therefore not interfere with the use of the public highway and would not materially increase the risk to users of the highway.

16. For these reasons, I conclude that the proposed development would not result in a material loss of parking provision and the impact on highway safety would therefore not be materially harmful. Consequently, the proposal would comply with Policy CP61 of the CS, which seeks, in part, that development capable of being served by safe access to the highway network, and Policy CP57 of the CS, insofar as it seeks development to meet the requirements of Policy CP61.

Other Matters

17. I am mindful of my statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as the site is adjacent to the Grade II* listed gates, gate piers and flanking walls of Amesbury Abbey, which gain most of their significance from their historic and architectural interest as an example of a mid to late 18th Century estate entrance.

18. The proposed extension is judged to be in keeping with the host building and its surroundings and the scale and siting of the proposal is considered to be appropriate in relation to the existing dwelling. I have also previously established that the proposal would not cause material harm to the nearby TPO trees, which contribute positively towards the setting of the listed structure. I am therefore satisfied that the proposal would not materially harm the significance of the listed gates, gate piers and flanking walls.

Conditions

19. The Council have suggested various conditions in the event that I am minded to allow the appeal. I have considered these against the six tests set out in the Framework and Planning Practice Guidance and made changes to the wording to add clarity and preciseness as appropriate.

20. The standard time limit condition and a condition listing the approved plans are necessary for the purposes of clarity. A condition requiring compliance with pre-approved arboricultural protection measures is reasonable and necessary to prevent harm to trees during construction works that in turn could be detrimental to the character and appearance of the area. A further condition is also reasonable and necessary to ensure that the foundations and underground services for the development do not cause future harm to the protected trees.

21. In the interests of biodiversity and ecology it is reasonable and necessary for a condition to require the works to be carried out in accordance with a bat management plan that has been informed by an up-to-date bat survey. A condition requiring the implementation of a Construction Environmental Management Plan is also considered to be reasonable and necessary when having regard to the close proximity of a watercourse.

22. The Council's suggested condition requiring the creation of an additional parking space within the site is not considered to be reasonable or necessary as there would not be an increase in the number of bedrooms and I have not been made aware of any issues arising from the existing parking provision. Additionally, an additional parking space could result in potential harm to the TPO trees due to a greater encroachment into their respective RPAs.

Conclusion

23. For the reasons given above the appeal should be allowed.

K Reeves

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 Location Plan and drawing numbers 21/752/P001 Rev C, 21/752/P002 Rev D, 21/752/P100 Rev B, 21/752/P110 Rev A, 21/752/P111 Rev B and 21/752/P201 Rev B.

3) No development shall take place, nor any demolition works or site clearance or storage, until there has been submitted to, and approved in writing by, the Local Planning Authority details of a scheme for the protection of the existing trees shown on drawing number ECO 4 (Tree Protection) in the Arboricultural Implications Assessment and Method Statement (by ecourban Arboricultural and dated 23 June 2023). The scheme shall include all appropriate tree protection measures required before and during the course of development (in accordance with BS5837:2012), any proposed pruning, felling or other work, any proposed alterations to existing ground levels and of the position of any proposed excavation that might affect the root protection area. The approved scheme shall be carried out during any demolition works and throughout the course of the development.

4) No development shall take place, nor any demolition works or site clearance or storage, until there has been submitted to, and approved in writing by, the Local Planning Authority details of the development's foundation design and underground services, to take account of the existing trees shown on drawing number ECO 4 (Tree Protection) in the Arboricultural Implications Assessment and Method Statement (by ecourban Arboricultural and dated 23 June 2023). Development shall thereafter take place in accordance with the approved details.

5) No development shall take place, nor any demolition works, until there has been submitted to, and approved in writing by, the Local Planning Authority a bat management plan, to include detailed proposals for the protection and enhancement of bats, and measures for the mitigation of any harm to them likely to be caused by the development. The development shall be carried out in accordance with the approved protection and mitigation measures, and any recommended ecological features shall be installed prior to first use of the extension hereby permitted and retained as such thereafter.

6) No development shall take place, nor any demolition works or site clearance or storage, until there has been submitted to, and approved in writing by, the Local Planning Authority a Construction Environmental Management Plan (CEMP), to include details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to the following:

- Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing;
- Working method statements for habitats protected/priority species, such as nesting birds, bat and the River Avon Special Area of Conservation;
- Mitigation strategies already agreed with the local planning authority prior to determination, such as for bats; this should comprise the pre-construction/construction related elements of strategies only;
- Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site; and
- Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).

The development shall be carried out in strict accordance with the approved CEMP.

End of Schedule