



## Appeal Decision

Site visit made on 12 March 2018

**by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 08 May 2018**

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**Appeal Ref: APP/H0738/W/17/3181262**

**11 Holderness, Wynyard TS22 5RY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Robinson against Stockton-on-Tees Borough Council.
  - The application Ref 17/0737/FUL, is dated 22 March 2017.
  - The development proposed is described as "erection of timber double garage to rear garden with associated ground works to create driveway. New estate-style metal gate, to match existing fencing. Access to garden using electrical sub-station already agreed upon with Northern Powergrid."
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The Council did not make a decision on the application. However, they advise that had they done so they would have refused planning permission. This would have been on grounds that, firstly, the garage and drive would result in the loss of, and harm to other, protected trees including pressure on pruning and felling trees in the long term. Secondly, that the use of the drive would create a conflict between pedestrians and vehicles entering and exiting the site.
3. Since the appeal was made the Council has confirmed the Tree Preservation Order (TPO) which partly relates to the appeal site. Although the appellant points out that the TPO was not in place when he made the application and contends that delays in determining the application enabled the Council to make the TPO, I have nevertheless determined the appeal on the basis of the circumstances which exist at the time of my decision.

### Main Issues

4. Considering the Council's notional refusal reasons, the main issues raised by this appeal are the effect the development would have on the area's character and appearance, including on protected trees, and on pedestrian safety.

### Reasons

#### *Character and appearance*

5. The proposed garage would be situated within the large garden of a detached house served by a new dedicated drive and turning area. The garage would be situated within a group of trees and the plans show five to be removed.

6. The housing estate in which the site is located has a particularly spacious character with groups of houses largely set in cul-de-sac arrangements. A positive feature of the area is formed by groups of mature trees dividing some culs-de-sac from one another and also providing an attractive setting for houses. The cluster of trees within which the garage is proposed are very prominent due to their height, extent and situation adjacent to Wynyard Woods, the main estate road, as well as from surrounding streets where they form a backdrop to many houses. They make an important and positive contribution to the visual amenity of the area as recognised by their TPO protection.
7. Whilst parts of the area of trees would remain, the proposed removal of five within the centre of the group would erode the area covered by them and to a degree 'hollow out' the group of trees. This would reduce the tree coverage within the site and area, and would be readily apparent from the adjoining Wynyard Woods.
8. The driveway and turning area would be located under the crown of, and in close proximity to, other trees in the group. In the absence of any details to the contrary, the groundworks associated with the creation of the driveway and the drive itself would be likely to adversely affect the roots of those surrounding trees through damage to the roots themselves and compaction of the soil structure. The hardstanding in front of the garage would allow vehicles to be parked outside. This could lead to pressure to prune or fell adjacent trees should occupiers be concerned about potential damage to cars from falling branches or needle drop. Although protected by the TPO such circumstances may make it more difficult for the Council to resist proposals for pruning or felling in the future, particularly where ground works have damaged tree roots.
9. Both the removal of trees and the likely adverse effects on retained ones would have a materially harmful effect on the area's character and appearance which is in part derived from the protected trees. Consequently the proposal would not comply with Core Strategy<sup>1</sup> Policy 3 (CS3) which, amongst other criteria, requires development to make a positive contribution to the local area by protecting important environmental assets and responding positively to existing features including trees. Nor would it accord with the National Planning Policy Framework's (the Framework) core planning principle of conserving and enhancing the natural environment.
10. Drives to houses leading directly onto the estate 'loop' road of Wynyard Woods are not a feature of the area in the vicinity of the appeal site. However as the proposed drive would utilise an existing crossover point in front of the sub-station, this aspect would not adversely affect the established planned character of the area which it derives through its layout and hierarchy of roads.

#### *Pedestrian safety*

11. Footways run in grass verges on either side along Wynyard Woods. At occasional points along its length, short footway links join them to the main carriageway. This arrangement exists at the proposed access point and that link adjacent to the appeal site could also function as a vehicle cross over for the sub-station behind it. There are no road markings or signs to denote the

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<sup>1</sup> Stockton-on-Tees Borough Local Development Framework – Core Strategy Development Plan Document, 2010.

crossing point but the combination of its situation and drop kerbs make it an obvious place for choosing to cross Wynyard Woods.

12. There is no reason to suggest that the amount of vehicle movements associated with a garage serving a single dwelling would be particularly high. The configuration of Wynyard Woods and wide open verges on either side would mean that any vehicles entering the proposed drive would have a good view of any pedestrians using the footway or crossing the road at that point and vice versa.
13. Nevertheless, from my observations opportunities to cross Wynyard Woods without traversing the grass verges are limited. This would mean that the crossing may be one of the few which would provide a convenient location, particularly for those less mobile, in a wheelchair or pushing a pram and so on. Should such users cross from the other side to find their destination obstructed by an oncoming exiting vehicle they could be left in a vulnerable position in the road. Whilst such circumstances may not occur often, if they did the consequences have the potential to be severe.
14. Furthermore, the proposed drive would join the area in front of the sub-station at a particularly acute angle to Wynyard Woods. The effect of this arrangement would be that drivers leaving the site would have very limited views of any pedestrians on the footway approaching from the right. Even at the slow speeds vehicles would be likely to be travelling in such a constrained geometry, the combination of the angle at which vehicles would exit and limited visibility due to the existing hedge would mean that even if use of the footway is infrequent pedestrians, and particularly drivers, would have very little warning of one another with the consequent potential for conflict.
15. Whilst there may be the potential for improving visibility in this respect, no details have been provided. It cannot be certain therefore that the potential consequential effects on the characteristic boundary treatment of metal estate fence and hedge, or indeed protected trees close to the proposed junction, and therefore their effect on the area's character, will have been properly considered. In these circumstances it would not be reasonable to rely on a condition addressing that aspect given the uncertainty as to whether any such knock on effects would be acceptable.
16. The proposed configuration of the access would give rise to harm to pedestrian safety, contrary to the Framework's transport and public safety requirements.

### **Conclusion**

17. For the above reasons the development would harm the character and appearance of the area, including protected trees, and pedestrian safety contrary to the development plan in the first instance, and the Framework in both. The appeal is therefore dismissed.

*Geoff Underwood*

INSPECTOR