



Appeal Decision

Site visit made on 25 October 2016

by Andrew McCormack BSc (Hons) MRTPI

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

Decision date: 23 November 2016

Appeal Ref: APP/Q5300/W/16/3156327

43 Laburnum Grove, Southgate, London N21 3HT

- 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 George Zigras against the Council of the London Borough of Enfield.
 - The application Ref 16/02557/FUL is dated 7 June 2016.
 - The development proposed is erection of a detached 3 bed family dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr George Zigras against the Council of the London Borough of Enfield. This application is the subject of a separate Decision.

Preliminary Matter

3. The Council did not issue a decision within the prescribed period. The appellant exercised his right to appeal against the failure of the Council, as the local planning authority, to determine the application. The Council's appeal statement states that insufficient information was submitted with regard to undertaking an appropriate assessment of the impact of the proposal on a nearby mature tree on adjacent land which is considered to be of visual significance to the local area. The Council's reason for refusal relates to the lack of relevant information submitted which is contrary to local and national policies.

Main Issue

4. From the submitted evidence and taking the above into account, I consider the main issue to be whether sufficient information has been submitted in order to appropriately assess the effect of the proposed development on the nearby mature tree on the Winchmore School playing field and the surrounding area, having regard to the relevant policies of the development plan.

Reasons

5. The appeal site comprises an irregular shaped plot of land which contains an end of terrace dwelling on the south eastern side of Laburnum Grove and is situated at the end of a cul-de-sac. The garden area of the existing dwelling is to the side and rear of the property and is positioned to the south of the dwelling. The area is predominantly residential and is characterised by terrace properties of a similar
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- design, age and character. The site is adjacent to the playing field of Winchmore School. There are a number of trees and shrubs positioned along the boundary between the appeal site and the school. These trees make a significant contribution to the overall character and appearance of the streetscene and wider area.
6. Policy DMD80 of the Enfield Development Management Document 2014 (DMD) states that development that involves the loss of or harm to trees covered by Tree Preservation Orders, or trees of significant amenity or biodiversity value, will be refused. Furthermore, the supporting text to the policy states that, where applicable, it will be appropriate for applicants to submit documents which set out the measures to be taken during demolition and construction to safeguard any retained trees in accordance with BS:5837 (2012) 'Trees in relation to design, demolition and construction' and any subsequent revisions. The supporting text also states that applicants are advised to seek qualified expertise prior to the initial design phase to ensure that any tree constraints that may inform the site design and layout are identified at an early stage.
 7. The proposal would be close to the southern boundary of the appeal site and would therefore be close to a mature tree positioned on the adjoining playing field. From the evidence before me, it appears that the proposal would not encroach upon the area covered by the crown of the tree. However, it is unclear whether the tree would place significant constraints upon the proposed development. Similarly, there is no assessment provided regarding the effect of the proposal on the tree. I acknowledge that the tree referred to in this case is not protected. However, given its prominence and significance within the streetscene, and in accordance with Policy DMD80, I find that an Arboricultural Impact Assessment (AIA) and tree protection plan in relation to the proposal would be appropriate and necessary.
 8. I appreciate the reasons as to why the appellant did not identify the tree on the application form. However, I find that in the absence of an AIA or similar, the Council had insufficient information available to fully assess the impact of the proposed development against the significant visual and biodiversity value of the tree. I appreciate that the Council did not make a formal request for such information. Despite this, from the evidence before me, I note that the Council made verbal requests during and after the determination period for the application. Notwithstanding this, the relevant information was not declared on the application form and an AIA was not provided by the appellant at the time the application was submitted, during the period of determination or after the requests were made by the Council.
 9. The appellant argues that any issues with the proposal regarding its proximity of the tree should have been raised at the outline application stage and that the new material relating to the reason for refusal could have been dealt as the application was being determined. Furthermore, it is stated that an extension of time to consider the further information could have been agreed. Whilst I acknowledge the appellant's frustration with the progress of the application and the process, matters relating to the tree are usually considered at the more detailed reserved matters application stage rather than within outline applications.
 10. With regard to the matters relating to the reason for refusal, whilst ideally the concerns relating to the mature tree would have been identified at an early stage, in this case this did not occur. Nevertheless, the Council did make requests to the appellant for further information with regard to the potential impact on the tree once it was identified as a material consideration. Whilst I note the appellant's point regarding the Council seeking an extension of time to determine the potential

impact and assess the requested information, this would be a matter to be resolved between the Council and appellant.

11. The appellant states that the provision of the AIA or similar could be conditioned were the appeal allowed. However, I find that the absence of the relevant information at the application stage would make a full and proper assessment of the proposal difficult to undertake. As a result, I conclude that this would warrant a reasonable and justified reason for refusal.
12. Consequently, based on the evidence before me, I conclude that the proposed development, by reason of insufficient information provided to properly assess the impact of the scheme on a nearby significant tree and its surrounding area, would be contrary to Policy DMD80 of the DMD. Amongst other matters, this policy seeks to ensure that development does not involve any loss or harm to protected trees or trees of significant amenity or biodiversity value.

Conclusion

13. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed and planning permission refused.

Andrew McCormack

INSPECTOR