

Appeal Decision

Site visit made on 13 February 2017

by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI

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

Decision date: 21 February 2017

Appeal Ref: APP/M2270/W/16/3160350

1, Lonsdale Gardens, Tunbridge Wells, Kent TN1 1NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant subject to conditions of consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Richard Williams against the decision of Tunbridge Wells Borough Council.
 - The application Ref 16/505109/SUB, dated 15 June 2016, sought approval of details pursuant to condition No 3 of a planning permission Ref 15/507674/FULL granted on 18 November 2015.
 - The development proposed is conversion of offices to a five bedroom house, change of fenestration to doors, internal alterations and erection of a detached garage.
 - The condition in dispute is No 3 which states that: No development shall take place until an Arboricultural Method Statement (AMS) in accordance with the current edition of BS 5837 has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved statement.
 - The reason given for the condition is: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance of the area.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether or not implementing the works set out in the Arboricultural Method Statement (AMS) would preserve or enhance the character or appearance of the Royal Tunbridge Wells Conservation Area.

Reasons

3. Lonsdale Gardens lies within the Royal Tunbridge Wells Conservation Area. In assessing the AMS I therefore have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of that Area. Any harm to a heritage asset requires clear and convincing justification. The National Planning Policy Framework (the Framework) also advises that any harm which is less than substantial must be weighed against the public benefit of the proposal.
 4. The southern side of Lonsdale Gardens is characterised by four storey buildings, which appear to be three-storey when viewed from the street due to the fall in levels towards the south. The area is mixed with residential, professional and non-residential institution uses in properties of varied sizes and forms.
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5. Permission for conversion of No 1 from office use to a single dwelling and erection of a double garage in the area to the rear of the property was granted in 2015, subject to various conditions, one of which required submission of an AMS. There are two trees on the site, a Lawson Cypress and a Norway Maple; both are protected due to their location in the Conservation Area. When the application was being considered there was no suggestion that either of these trees would be lost and no specific tree works were included within the original application. However, as it was considered likely that the erection of the garage would affect the roots of trees, a condition was imposed requiring an AMS to agree a construction method that would ensure that the trees would be protected and retained.
6. From my visit to the site it was apparent that the position of the Lawson Cypress could make manoeuvring in and out of the proposed garage difficult. However, there are existing car parking spaces already in use close to the tree. Therefore, from a visual inspection of the surroundings and in the absence of definitive evidence to the contrary, there was nothing to suggest that it would be impossible to erect and use the garage whilst retaining the tree. However, the submitted AMS was accompanied by a swept path analysis showing that vehicles could not enter or leave the proposed garage without the Lawson Cypress tree being removed. Therefore, rather than proposing a method of construction to retain this tree, the AMS sought permission to remove it.
7. As the tree was not immediately affected by the proposal and no tree works were included in the original application, paragraph 134 of the Planning Practice Guidance¹ (PPG) advises that a separate section 211 notice should be submitted. It goes on to state that where planning permission has been granted, only tree works necessary to implement the development may be carried out and conditions may be used to clarify this requirement. In this case the condition was imposed specifically to secure the protection and retention of the trees. Felling the Lawson Cypress therefore cannot be considered to be one of the exceptions that is set out in paragraph 60 of the PPG².
8. The Lawson Cypress is a large and mature tree. From Lonsdale Gardens it can only be glimpsed through the gap between the buildings. Neither is it apparent in views towards the south from Clanricarde Road. I therefore accept that its importance from public viewpoints within its immediate setting is limited. Nevertheless, it is a significant feature in the surrounding townscape that helps to soften this densely developed part of the town centre and will be seen from the rear elevations of a number of surrounding buildings. Furthermore, the majority of other trees in the area, including those in Mount Pleasant Road, are deciduous. By contrast, this tree and a few other notable evergreens, make a particularly positive contribution to the character and appearance of the area during the winter months. It therefore adds value even though it is not a native species.
9. One of the distinguishing features of the area's wider topography is the sharp fall in levels along Mount Pleasant Road. The rear elevations of the properties in Lonsdale Gardens are therefore highly visible from further south and most particularly from the approach to Tunbridge Wells Station. From the station entrance the Lawson Cypress tree is a prominent feature rising above a large retaining wall and appearing to be taller than the buildings to its rear. No 1 is

¹ PPG paragraph 134: Reference ID: 36-134-20140306

² PPG paragraph 60: Reference ID 36-060-20140306

almost entirely hidden from view from this area due to the overall height and spread of the tree. The tree therefore makes a welcome and significant contribution to the appearance of an area that is otherwise dominated by large buildings and other urban features and structures.

10. The loss of this tree would therefore be harmful to the Conservation Area, although in terms of the Framework this harm would be less than substantial. The proposed garage would be for private use and would therefore not be associated with any public benefit. The tree overhangs the adjacent property and I understand that the shedding of small diameter dead wood and other organic debris has been a source of complaint, particularly for the owners of cars parked beneath it. However, this minor nuisance is not a justification for felling a tree that is of high amenity value.
11. I therefore conclude that implementing the tree works set out in the AMS would be harmful to the character and appearance of the Royal Tunbridge Wells Conservation Area. The Area would not be preserved and the works would be contrary to Core Policies 4 and 9 of the Core Strategy³ and saved Policies EN1 and EN5 of the Local Plan⁴. All these policies seek to conserve and enhance the heritage assets of the borough, including significant trees that contribute to the character of the built up area.
12. For this reason I conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR

³ Tunbridge Wells Borough Local Development Framework: Core Strategy Development Plan Document: June 2010

⁴ Tunbridge Wells Borough Local Plan: March 2006