



Appeal Decision

Site visit made on 7 August 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 29th August 2017

Appeal Ref: APP/R5510/W/17/3173343 28 Moor Park Road, Northwood HA6 2DJ

- 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 Kashyap Shah against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 36894/APP/2017/179, dated 6 January 2017, was refused by notice dated 17 March 2017.
 - The development proposed is the demolition of an existing 4 bedroom detached dwelling and the erection of a new 4 bedroom detached dwelling with a habitable roof and associated amenity space, refuse and recycling.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of an existing 4 bedroom detached dwelling and the erection of a new 4 bedroom detached dwelling with a habitable roof and associated amenity space, refuse and recycling at 28 Moor Park Road, Northwood HA6 2DJ in accordance with the terms of the application, Ref 36894/APP/2017/179, dated 6 January 2017, subject to the conditions contained within the attached schedule.

Main Issues

2. The main issue is the effect of the development on the protected trees on the site.

Reasons

Trees

3. The number of trees of various species and sizes in the vicinity of the appeal site make an important positive contribution to the leafy, suburban character of the area. The appeal site is covered by a Tree Preservation Order, which extends to a number of properties fronting the north side of Moor Park Road and properties on the adjacent Mezen Close. Amongst other trees, within the site are two Oak trees which are prominent features within the streetscene. The proposed replacement dwelling would be within the Root Protection Area (RPA) of these two trees.
4. An Arboricultural Report (AR), dated 14 October 2016 undertaken by Crown Consultants identifies that providing appropriate construction methods are utilised, for example an above ground slab foundation, and the crowns of both of these trees are lifted the proposal would not significantly harm the trees.

5. I note that the Council has made reference to the crowns being lifted to 10m. However, the AR states that the crowns of the two trees would be lifted to 9.5m and 8.5m on the side facing the development. Therefore, the effect on the health of the trees and the visual amenity of the area would be significantly less than indicated by the Council. The side of the trees facing the road, the most visually prominent side of the trees, would not be affected by the development. Accordingly, I find that the proposed pruning works would not significantly harm the visual amenities of the area.
6. Furthermore, as the pruning works would be significantly less than indicated by the Council, the evidence before me suggests that the loss of some limbs on the side of the crown facing the proposed dwelling would not result in any significant harm to the health of the trees. There is no substantive evidence to suggest otherwise.
7. Notwithstanding the above, the crowns of the trees would be within proximity of first floor windows serving a bedroom. Due to their proximity and south easterly orientation to these windows, the trees would significantly restrict light to the bedroom and therefore adversely harm the usability of the room. Consequently, they would likely have an adverse effect on the living conditions of its future occupants. As a result, the Council would find it difficult to resist any pressure from future occupants to prune the trees further or remove them altogether. Such works would significantly harm the visual amenity of the area.
8. I find therefore that the proposal would adversely harm the protected trees within the appeal site. As such, it fails to comply with saved Policy BE38 of the London Borough of Hillingdon Local Plan: Part Two - Saved UDP Policies (LP2) 2012, which seeks to ensure that development retains landscape features of merit.

Other Considerations

9. Planning permission¹ has recently been granted for various works to the appeal property. The appellant confirms that these works 'mirror' the appeal proposal. The Council does not dispute this. There is no evidence before me that the Council raised any objection to the approved scheme on the basis of the effect of the development on the protected trees.
10. As the appellant has already been granted planning permission for a scheme that would result in a dwelling similar to that proposed, were I to dismiss the appeal there is a reasonable prospect that the approved development would be carried out, which would have the same effect on the protected trees. Accordingly, I attribute significant weight to this fall-back position.

Planning Balance

11. The proposed replacement dwelling would conflict with saved Policy BE38 of the LP2. However, the appellant's fall-back position to implement the approved development is a very real possibility. The effects of the appeal proposal on the protected trees would unlikely be any greater than the approved development. Accordingly, I find that the proposition of the fall-back position is a material consideration, which would, in this case, justify making a decision which is not in accordance with the development plan.

¹ LPA Ref 36894/APP/2016/2704

Conditions

12. I have had regard to the various conditions suggested by the Council. For the avoidance of doubt it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans. In the interests of the character and appearance of the area conditions regarding materials, boundary treatment and landscaping are necessary. A condition is also necessary in order to safeguard the protected trees on site. In the interests of flood prevention, conditions are necessary regarding surface water and sewage drainage. Furthermore, conditions are necessary to ensure adequate visibility splays and car parking are provided and retained in the interests of highway safety.
13. Details regarding the restriction of surface water and on-site storage can be adequately covered under the suggested condition regarding surface water and sewage. A separate condition for this matter is not necessary.
14. The details required in the landscaping scheme as suggested by the Council are excessive given that the proposal is for a single replacement dwelling. There is evidently sufficient space within the site to accommodate many of the required details, such as refuse storage and cycle storage. Accordingly, I have imposed more concise, less onerous landscaping conditions.
15. It is essential that the requirements of conditions 4 and 6 are agreed prior to the development commencing to ensure an acceptable form of development in respect of public health and preserving the character and appearance of the area.

Conclusion

16. For the reasons given above, having regard to all matters raised, the appeal is allowed.

Alexander Walker

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 following approved plans: P101, P102, P103, P201, P202, P601 and 1700-1.
- 3) No development shall commence (except for demolition works) until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall commence until details of a scheme for the disposal of surface water and sewage has been submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be carried out before any part of the approved

- development is occupied unless otherwise agreed in writing by the local planning authority.
- 5) No development shall commence (except for demolition works) until details of the boundary treatment to be erected have been submitted to and approved in writing by the local planning authority. The approved details shall be carried out prior to the occupation of the hereby approved dwelling.
 - 6) No development shall commence until a landscape scheme has been submitted to and approved in writing by the local planning authority. This scheme shall indicate full details of the treatment proposed for all hard and soft ground surfaces and boundaries together with the species and materials proposed, their disposition and existing and finished levels or contours. The scheme shall also indicate and specify all existing trees and hedgerows on the land which shall be retained in their entirety, unless otherwise agreed in writing by the local planning authority, together with measures for their protection in the course of development.
 - 7) The approved landscape scheme (both hard and soft) shall be carried out before the first occupation of the dwelling or the completion of the development, whichever is the sooner; unless otherwise agreed in writing by the local planning authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
 - 8) The access for the proposed car parking shall be provided with those parts of 2.4m x 2.4m pedestrian visibility splays which can be accommodated within the site in both directions and shall be maintained free of all obstacles to the visibility between heights of 0.6m and 2.0m above the level of the adjoining highway.
 - 9) The car parking spaces to be provided shall be kept available for the parking of cars at all times.
 - 10) The development hereby approved shall be carried out in accordance with the details set out in the Arboricultural Report, dated 14 October 2016, undertaken by Crown Consultants