

Appeal Decision

Site visit made on 5 March 2019

by G Jenkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th July 2019

Appeal Ref: APP/A1910/W/18/3218165

47 Peascroft Road, Hemel Hempstead, Herts, HP3 8ER

- 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 M Ulhassan against the decision of Dacorum Borough Council.
 - The application Ref 4/02541/18/FUL, dated 1 October 2018, was refused by notice dated 28 November 2018.
 - The development proposed is a 4-bedroom semi detached new build.
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Decision

1. The appeal is allowed and planning permission is granted for a four-bedroom semi detached new build at 47 Peascroft Road, Hemel Hempstead, Herts, HP3 8ER in accordance with the terms of the application Ref 4/02541/18/FUL, dated 1 October 2018, and the plans submitted with it, subject to the attached schedule of conditions.

Procedural Matters

2. The description of development in the banner heading above has been taken from the application form. The appeal form and the decision notice sets out a slightly different description, which is construction of a 4 bedroomed semi detached dwelling. This more accurately describes the proposal. The Council made its decision on this basis and so have I.
3. Since the appeal was lodged the Government has published an updated revised National Planning Policy Framework (The Framework). The changes do not affect the consideration of this appeal, however any reference to the Framework in this decision shall be taken to refer to the 2019 publication

Main Issue

4. The main issue relating to this appeal is the effect of the proposal upon the health and stability of the Ash tree proximate to the property boundary.

Reasons

5. The appeal site consists of one half of an enlarged semi-detached dwelling which is located adjacent to a tree lined public footpath leading from Peascroft Road to Goldcroft where the area is predominantly residential. The dwelling has been previously enlarged by the addition of a side two storey extension which is set back slightly from the main elevation and externally finished in pebble dash render.

6. This appeal proposal seeks the demolition of the existing two-storey side extension and the construction of a two-storey side extension that would form a new two bedroom dwelling.

The effect of the proposal upon the health and stability of the Ash tree

7. The Ash tree lies in relatively close proximity to the appeal site. The tree is one specimen in a row of trees, which run along the adjacent footpath leading from Peascroft Road to Goldcroft. The Council suggest that these trees are the remnants of Hobbs Hill Wood and therefore have historical significance. Moreover, had they not been in Council ownership they would have been protected by Tree Preservation Orders.
8. The Councils' concern is that the construction activity associated with the new dwelling would compromise the health and stability of the tree. The Council have records of a number of complaints from local residents at Nos 45 and 47 Peascroft Road regarding the size of the trees, blocked light, overhanging branches and debris.
9. The Ash tree which is identified by the Council as of most concern is a veteran tree. It is clearly of high amenity value and makes a positive contribution to creating a pleasant townscape. The Council fear that the new dwelling would inevitably place greater pressure for branch removal or even removal of the tree in its entirety.
10. In contrast the appellant has submitted a detailed arboricultural report in support of the appeal proposal. This argues that the roots that give stability to the tree, static root plates, (SRP) are not within any part of the appeal site. They state that it would be false to claim that the dwelling would have an adverse impact upon the stability of the tree.
11. The appellant also argues that whilst a small percentage of the root protection area (RPA) may be affected by the proposal that trees are dynamic and generative organisms which develop new tissue from time to time and a good proportion of both the root system, and that the crown, is potentially redundant. They argue the tree can function perfectly normally if parts are lost and that their professional advice asserts that the tiny amount of root cutting proposed (3%) would have a negligible effect on the tree and no special footings would be required.
12. The arboricultural report states that mitigation measures to improve the soil environment used for the tree growth must be used and this could be covered by a condition attached to a decision.
13. I conclude that there is no realistic prospect of the proposed dwelling requiring disfiguring pruning of the tree to build the structure nor is there any realistic prospect of "pressure" to prune the tree inappropriately post-construction if such pruning was requested of the Council, even if ultimately the exercise of Common Law rights to prune any overhanging tree to the property boundary were pursued. I find that there is no appreciable threat or loss of the tree or disfigurement as a result of any pruning that is reasonably likely to be carried out in the future. I therefore find that the proposal would not be contrary to Policies CS11 and CS12 of the Core Strategy, and paragraph 175 (c) of the NPPF (2018) which amongst other things seek to protect trees during development.

Conditions

14. The Council have suggested a number of conditions, some of which require amendment for clarity and enforceability. In addition to the standard time limit condition, I have imposed conditions that require the developments to accord with the approved plans in the interest of clarity.
15. I attach a condition relating to the details of the materials to be used for the construction; this is necessary in terms of maintaining the character and appearance of the area.
16. I have not included the Council's suggested conditions relating to remediation as I consider these unnecessary given the nature and extent of the existing built form on the site and I have no substantive evidence before me to demonstrate that the site is contaminated other than the general assertion of the scientific officer.
17. Conditions relating to vehicular access and drainage are necessary in the interest of highway and pedestrian safety.
18. I have imposed the appellants recommended condition relating to the order of implementation of the arboricultural methods. The condition will maximise the protection given to the root system of the tree. I am mindful that the Council have not commented on the adequacy or otherwise of this method statement when the purpose is to seek to control and safeguard ground works, and particularly mindful that the council have not recommended a condition which would be to the same end.

Other matters

19. There is a national housing crisis and I therefore conclude that the benefit of an additional new dwelling in this highly sustainable location would be significant. I am not convinced that there would be harm to the tree and find that any such harm can be mitigated during the course of development.

20. Conclusions

21. For the above reasons and having considered all matters raised in the evidence I conclude that the appeal should be allowed.

Gemma Jenkinson

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans/documents:
 - 06/18 SHT 2
 - 06/18 SHT 5
 - 06/18 SHT 6
3. No development shall take place above slab level until details of the materials to be used in the construction of the external surfaces of the proposed building have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using only the approved materials.
4. Prior to the first use of the development hereby permitted the vehicular access shall be provided and thereafter retained at the position shown on the approved plan in accordance with the highway specification. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway. 
5. All ground works within the areas marked shall be in strict accordance with the implementation methods set out in the John Corner Arboriculture Report.